

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND)
SERIES 1999B

and

\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY)
SERIES 1999C

DISTRIBUTION LIST

Issuer

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Beth Frum, Recorder
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Lender

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Lender, Registrar and Depository Bank

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Union Bank of Tyler County
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TRANSCRIPT LIST

\$800,000
Town of Middlebourne
Sewer Revenue Bonds
(Rural Utilities Service)
Series 1999A,
\$375,000
Town of Middlebourne
Sewer Revenue Bonds
(State Revolving Fund)
Series 1999B, and
\$120,000
Town of Middlebourne
Sewer Revenue Refunding Bonds
(Union Bank of Tyler County)
Series 1999C

Closing: August 27, 1999

A. BASIC

1. Copy of the Legislative Act Creating the Town of Middlebourne, West Virginia (the "Issuer") and an Ordinance creating the Sanitary Board.
2. Orders appointing members of Sanitary Board of the Issuer and oaths of office of members of Town Council and Sanitary Board of the Issuer.
3. Petition of Sanitary Board to Town Council Authorizing Issuance of Bond.
4. Certified Copy of Bond Ordinance of the Issuer effective on August 26, 1999.
5. Minutes of Meetings of Town Council on First and Second Readings and Public Hearing with respect to Ordinance and Loans.
6. Notice of Public Hearing on Bond Ordinance and Affidavit of Publication.
7. West Virginia Public Service Commission Recommended Decision and Commission Order.
8. Letter of Conditions, as amended, and Letter of Instructions from U. S. Department of Agriculture, Rural Utilities Service.
9. Loan Agreement among West Virginia Water Development Authority, West Virginia Division of Environmental Protection and the Issuer.

10. Loan commitment letter from Union Bank of Tyler County.
11. Copy of Rate Ordinance.

B. CERTIFICATES AND RECEIPTS

12. General Certificate signed by the Mayor, Recorder and Attorney of the Issuer.
13. Non-Arbitrage Certificate of the Issuer.
14. Certificate of Consulting Engineer.
15. Certificate of Certified Public Accountant.
16. Certificate of Recorder as to Truth and Accuracy of Documents Delivered.
17. NPDES Permit (cover page).
18. Registrar's Agreement between the Issuer and Registrar.
19. Acceptance of Duties of Depository Bank.
20. Acceptance of Duties of Registrar.
21. Request and Authorization as to Authentication and Delivery of the Bonds.
22. Certificate of Registration of Bonds.
23. Cross-Receipt for Bond and Bond Proceeds.
24. Notice of Delivery of Bonds.
25. Financing Statements.
26. Copy of Form 8038-G filed with Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

C. LEGAL OPINIONS

27. Opinion of Goodwin & Goodwin, LLP, Bond Counsel, on Series 1999A Bonds.
28. Opinion of Goodwin & Goodwin, LLP, Bond Counsel, on Series 1999B Bonds.

29. Opinion of Goodwin & Goodwin, LLP, Bond Counsel, on Series 1999C Bonds.
30. Non-Arbitrage Opinion of Goodwin & Goodwin, LLP.
31. Opinion of Gary L. Rymer, Counsel to the Issuer.
32. Final title opinion of Issuer's Counsel.

D. REFUNDING

33. Notice of Redemption of 1973 Bonds.
34. Letter of Instructions.
35. Certificate of Defeasance.

E. MISCELLANEOUS


36. Investment Letter from Union Bank of Tyler County.
37. 1973 Bond Ordinance.
38. Municipal Bond Commission New Issue Report Form.
39. West Virginia Infrastructure and Jobs Development Council approval letter.
40. Specimen Bonds.
41. Grant agreements and letters.
42. Copy of Statutory Authority.

The closing of the sale of \$800,000 in aggregate principal amount of the Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, \$375,000 in aggregate principal amount of the Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B, and \$120,000 in aggregate principal amount of the Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, will take place at Room 2005, Federal Building, 425 Juliana Street, Parkersburg, West Virginia, at 10:00 a.m., Eastern Time, on August 27, 1999. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless and until all transactions are complete and all documents are delivered. Any document which references an Exhibit or Schedule to be attached thereto shall be considered completed and attached if the referenced Exhibit or Schedule appears elsewhere in this Transcript.

CERTIFICATE

The undersigned, Janice Bonner, Acting Recorder of the Town of Middlebourne, West Virginia, a municipal corporation, DOES HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the Legislative Act creating the Town of Middlebourne, that said Act is a correct and complete copy of the original of the Act, and that said Act has not been further altered, amended or repealed and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Town of Middlebourne this 27th day of August, 1999.


Acting Recorder

CHAPTER 6.—AN ACT authorizing the Trustees of the Island M. E. Church in the city of Wheeling, to sell and convey their Church property.

Passed February 3, 1871.

Be it enacted by the Legislature of West Virginia:

The Trustees of the Island M. E. Church in the city of Wheeling are hereby authorized to sell their church property on Wheeling Island, being Lot No. 62 in Daniel Zane's addition to the city of Wheeling, with the buildings thereon and to convey the same to the purchaser.

CHAPTER 7.—AN ACT incorporating the town of Middlebourne in the county of Tyler.

Passed February 3, 1871.

Be it enacted by the Legislature of West Virginia:

1. The corporate limits of the town of Middlebourne, in the county of Tyler, shall be as follows: Beginning at the mouth of Gorrell's run on the north side thereof, thence running a straight line to the northwest corner of lot number eighty-one, as laid down in the original plan of said town, thence running with the south line of said lot, south seventy degrees, east to the south east corner thereof, thence running with the line of the lots on the extreme east, as laid down in the original plan of said town, north twenty degrees, east to the corner of lot number twenty-four, thence continuing the same course (south twenty degrees east) to the Waynesburg road, thence with said road to the Sistersville and Salem turnpike road, and with said turnpike road westwardly to Middle Island creek at the corner of Steady's flat, and thence running up said creek with the meanders to the beginning.

2. The municipal authorities of said town shall be a Mayor and six Councilmen, who shall together form a common Council.

3. The Mayor and Councilmen shall be elected for one year by the citizens of said town entitled to vote under this act, and as soon as they have been elected and qualified, as hereinafter provided, shall be a body politic and corporate by the name of "The Town of Middlebourne," and shall have perpetual succession and a common seal, and by that name may sue and be sued, implead and be impleaded, may purchase and hold real estate necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of said town.

4. All corporate powers of said corporation shall be exercised by the said council or under their authority, except where otherwise provided.

5. There shall be a Mayor pro tem, town Clerk, a Ser- Officers to be grant, an Assessor, a Treasurer, and a Superintendent of Council. roads, streets and alleys, appointed by the council, to continue in office during its pleasure, and perform the duties respectively as hereinafter prescribed, or as may be required by the council.

6. One person may hold the office of Clerk, Treasurer and Assessor, or any two of said offices. One person hold two or three offices.

7. The first election under this act shall be held within First election. ninety days from the passage thereof, at the court house of Tyler county under the supervision of Samuel Billingsly, R. R. Swan, L. L. Stealey, John C. Way and Benedict Swan, or any three of them, who shall act as inspectors of said election.

8. A written or printed notice of the time of holding Notice of such election, signed by at least three of the persons authorized by the preceding section to act as inspectors of said election, shall be posted at the front door of said court house, and at least two other public places within the corporate limits of said town, for at least ten days, next preceding said election, which said notice shall specify the officers to be voted for.

9. In case the persons appointed in section seven shall fail or refuse to act, the notice aforesaid may be given by fill vacancies any three of the qualified voters of said town, and the said election may be held, conducted, certified and returned by any three voters of said town, appointed for the purpose by the voters present.

10. Such inspectors or persons acting as such, after severally taking an oath to faithfully discharge the duties of election; how inspectors of said elections, shall preside and act as inspectors of such elections, and all the laws applicable to the election of township officers shall apply to such election, if not inconsistent with this act, and such inspectors shall within ten days after such election, grant a certificate to the persons elected, which shall be recorded among the records of said town.

11. The officers first elected in said town shall hold their Terms of offices until their successors are elected and qualified. The office. term of all officers elected after the first election shall commence on the first day of February in each year, and shall be for one year and until their successors are elected and qualified.

12. After the said first election of officers they shall be Annual election. elected on the first Thursday in January in each year, at

the said court house, or at such other place as the council may direct.

When vacancies may enter upon the duties of an office.

13. All elections under this act shall be conducted under such supervision, rules and regulations, not inconsistent with the laws, regulating the general annual elections in this State, as the council may prescribe.

Oaths of office.

14. Every person elected or appointed to an office in said corporation shall within ten days after his election or appointment and before he shall enter upon the duties of his office, take and subscribe the oaths prescribed for township officers, which may be done before any person authorized by law to administer oaths, or before the mayor or town clerk of said corporation, which oaths with the certificate of the officer administering the same shall be filed with the clerk aforesaid.

How filed.

Who may vote.

15. All persons who have been bonafide residents within the corporate limits of said town for thirty days next preceding a charter election held therein and who are qualified voters under the constitution and laws of this State, and none others, shall be entitled to vote at any charter election held in said town.

Vacancies; how filled.

16. When a vacancy shall occur from any cause in the office of mayor, or in the council, the same shall be filled by appointment by the council from among the citizens of the town, eligible under this act.

Qualification for office.

17. The officers of said corporation must be residents thereof, and entitled to vote for members of its common council.

Tie votes; how decided.

18. Whenever two or more persons shall receive an equal number of votes for the same office, if such number be the highest cast for such office, the persons under whose supervision the election is held shall decide by lot which of them shall be returned elected and shall make their return accordingly.

Contested elections.

19. All contested elections shall be heard and determined by the council.

When council may enter upon the duties of an office.

20. When any four of the newly elected councilmen enter upon shall have been qualified as required by this act, they shall the duties of enter upon the duties of their offices respectively.

Vacancies in office.

21. If any person elected to the office of mayor, or that of councilman, shall not be eligible or shall refuse or neglect to take the oaths required by this act within the ten days aforesaid, such office shall be deemed vacant, and such va-

cancy shall be filled as vacancies in other cases under section sixteen of this act.

22. The council shall be presided over at its meetings by the mayor, or, in his absence, by the mayor pro tem, or in the absence of both mayor and mayor pro tem, one of the councilmen, selected by a majority of the council present; and a majority of the council shall be necessary to form a quorum for the transaction of business.

23. The council shall cause to be kept in a well bound book, an accurate record of all its proceedings, by-laws, acts, orders, and resolutions, which shall be fully indexed, and open to the inspection of any one who is required to pay taxes to such town.

24. At such meeting of the council, the proceedings of the last meeting shall be read, and corrected, if erroneous, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays, on any question, shall be taken and recorded in the journal.

25. In case of a tie vote in the council, the mayor shall give the casting vote, but he shall not vote, except there is a tie.

26. The council of said town shall have power therein, to lay off, vacate, close, open, alter, curb, pave, and keep in good repair, roads, streets, alleys, sidewalks, cross-walks, drains and gutters, for the use of the public, or any of the citizens thereof, and to improve and light the same, and have them kept free from obstructions, on or over them; to regulate the width of side walks, on the streets, and to order the side walks, foot ways, cross walks, drains, and gutters to be curbed and paved, and kept in good order, free and clean by the owners or occupants thereof, or of the real property next adjacent thereto; to establish and regulate markets; to prescribe the times of holding the same; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome; to prevent hogs, cattle, horses, sheep, and other animals, and fowls of all kinds from going at large in said town; to protect places of divine worship in and about the premises where held; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gun powder and other combustibles; to provide in or near said town places for the burial of the dead, and to regulate interments therein; to provide for the regular building of houses or other structures, and for the making of division fences by the owners of adjacent premises, and the drainage of lots by the proper drains and ditches; to make regulations for guarding against danger or damage

Powers of Council.

by fire; to protect the persons and property of the citizens of said town, and to preserve peace and good order therein, and for this purpose to appoint when necessary, a police force to assist the sergeant in the discharge of his duties; to prescribe the powers and define the duties of the officers appointed by the council, fix their terms of office and compensation, require and take from them bonds, when deemed necessary, payable to said town in its corporate name, with such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to erect, or authorize or prohibit the erection of gas works or water works in the town; to prevent injury to or pollution of the same, or to the water or healthfulness of the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town, and to provide a revenue for the town and appropriate the same to its expenses; to provide for the annual assessment of taxable property therein; to adopt rules for the transaction of business and the government and regulation of its own body. But no new streets or alleys shall be made without the consent of the owner or owners of the lots or property proposed to be taken for that purpose, nor shall any alteration be made in those streets and alleys already laid down in the original plan of the town of Middlebourne, or in what is known as Dodd's addition to said town, without the consent of the owners of the property adjacent to such proposed alteration, nor shall any street or alley in said Dodd's addition be opened beyond lot number fourteen without the consent of the owners of the property beyond that lot.

Powers of Council.

27. To carry into effect these enumerated powers and all others conferred upon said town or its council, by this charter or by any future act of the Legislature of this State, the council shall have power to make and pass all needful orders, by-laws, ordinances, resolutions, rules, and regulations not contrary to the Constitution and laws of this State; and to prescribe, impose and enforce reasonable fines, penalties, and imprisonments in the county jail or the place of imprisonment in said corporation, if there be one, for a term not exceeding thirty days, for violation thereof. Such fines, penalties, and imprisonment shall be recovered and enforced under the judgment of the Mayor of said town, or the person lawfully exercising his functions. The council with the consent of the Board of Supervisors of Tyler county entered of record, may have the use of the jail of said county as a place of imprisonment for violations of this act or any ordinance of said corporation.

Annual estimate.

28. The council shall cause to be annually made up and entered upon its journal, an accurate estimate of all sums which are or may become lawfully chargeable on such town, and which ought to be paid within one year, and if

shall order a levy of so much as may, in its opinion, be necessary to pay the same.

29. The levy so ordered may be upon all persons within said town who are entitled to vote for the officers thereof, not to exceed one dollar each, upon all real and personal estate therein subject to State and county taxes, not to exceed fifty cents upon every one hundred dollars value thereof, and the council may levy such tax upon dogs within said town as they may deem best. But all lots not used for places of residence, business or gardening purposes, and all parcels of land not laid off into town lots within the corporate limits of said town shall not be taxed for the purposes of said corporation a greater amount upon every one hundred dollars value thereof, than they would have to pay for road tax in the same year if they were not included in said corporation.

30. All fines assessed under and by virtue of the provisions of this act shall be for the use and benefit of the town.

31. Every male resident of the said town not under twenty-one, nor over sixty years of age, and who is not a pauper, shall if required by the council thereof, work not exceeding two days, by himself or an acceptable substitute, on the roads, streets, and alleys of said town, under the direction of the superintendent of roads, streets and alleys, or may be released from such work upon the payment to the How superintendent of such amount as may be fixed by the council, the money so paid to be used in the improvement of said roads, streets, and alleys.

32. Whenever anything for which a State license is required is to be done within said town, the council may require a town license therefor, and may impose a tax thereon for the use of the town. But no license to sell spirits or liquors, or wine, beer, ale, porter, or drink of like nature within the town, or within one mile of the corporate limits thereof, shall be granted by the board of supervisors of the county aforesaid, unless the person applying therefor shall produce to such board of supervisors the certificate of the council, of its consent to the granting of such license.

33. The sergeant shall collect the town taxes, levies and licenses, and in case the same are not paid within thirty days after they are placed in his hands for collection, he may sell and distrain therefor in like manner as a sheriff may distrain for the State taxes, and he shall in all respects have the same power to enforce the payment and collection thereof, as a sheriff has to enforce the payment and collection of the State taxes. He shall act as a conservator of the peace, quell all riots, disperse all unlawful assemblies and

arrest and bring before the mayor all disorderly persons. He shall execute all process issued by the mayor, collect all monies required thereby, and shall exercise the duties of a constable in regard thereto, and receive the same compensation therefor, and his sureties shall be liable to all the fines, penalties and forfeitures that a constable of a township and his sureties are liable to, for any failure or dereliction in said office, to be recovered in the same manner and in the same courts that the said fines, penalties, and forfeitures are now recovered against such constables.

Lien on real estate for taxes. 34. There shall be a lien on real estate within said town, for the town taxes assessed thereon from the time the same are so assessed, and the council may order or require the same to be sold or reuted by the sergeant at public auction for the arrears, with interest thereon, with such per centum as the council may prescribe for charges and expenses thereof, and may regulate the terms upon, and the time within which the same may be redeemed. No such sale or reuting shall be ordered until such realty shall be returned delinquent, and the sale shall be after twenty days notice posted at the front door of the court house aforesaid and at the post office in said town. But all such property shall be sold subject to the payment of all State, county, and township taxes that may at the time of sale be properly chargeable thereon.

Sergeant's duty in relation to taxes, fines, penalties, assessments, collection, and return a list of such as he shall not have been able to collect, by reason of insolvency, removal, or other cause; to which list he shall make an affidavit that he has used due diligence to collect the same, but has been unable to do so, and if the council shall be satisfied of the correctness of said list, it shall allow the sergeant a credit for the amount thereof. He shall receive for his services in the collection and assessments, a compensation to be fixed by the council of not exceeding five per centum on the amount duly collected and accounted for. He shall have any money in his hands belonging to the town, to be paid over to the treasurer at such times and under such regulations as the council may prescribe.

His compensation therefor. 35. If the sergeant shall fail to collect, account for, and pay over all or any of the moneys with which he may be chargeable, belonging to said town, according to the conditions of his bond and the orders of the council, it shall be lawful for the council to recover the same by motion, in the corporate name of the town in the Circuit Court of the county aforesaid, or where the sum does not exceed one hundred dollars, before a Justice of the county or township

Motion against grant. 36. If the sergeant shall fail to collect, account for, and pay over all or any of the moneys with which he may be chargeable, belonging to said town, according to the conditions of his bond and the orders of the council, it shall be lawful for the council to recover the same by motion, in the corporate name of the town in the Circuit Court of the county aforesaid, or where the sum does not exceed one hundred dollars, before a Justice of the county or township

in which the same is situated, against the sergeant and his sureties or any or either of them, or his or their executors or administrators, on giving ten days notice of such motion.

37. The mayor shall be the chief executive officer of said Mayor; his powers and duties. town. He shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be ex-officio a Justice and conservator of the peace within the town, and shall within the same, possess and exercise all the powers and duties vested by law in a Justice of a township, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the town and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the town are preserved and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of the said county or other place of imprisonment in said corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall exceed thirty days. He shall from time to time, recommend to the council such measures as he may deem needful for the welfare of the town. And he shall charge such fees as may be fixed by the council, and the council may allow him a salary, and fix the amount thereof, which shall not be increased or diminished during the term of service for which he shall have been elected.

38. In the absence from said town, or sickness of the Mayor, or during any vacancy in the office of Mayor, the Mayor pro tem shall perform all the duties of the Mayor and be vested with all his powers.

39. The town Clerk shall keep a journal of the proceedings of the council, and discharge such other duties as the council may prescribe, and shall have charge of and preserve the records of said town.

40. It shall be the duty of the assessor to make an assessment of the property within the town subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and to return the same to the council on or before the first day of May in each year, and for this purpose he shall have all the powers conferred by law on county assessors. He shall list the number of dogs in the town and the names of the persons owning the same, where required by the council so to do, which

list he shall return to the council with his assessment of property made in the same year.

41. All monies belonging to the said town shall be paid over to the treasurer, who shall not pay the same out except upon the order of the council, certified by the clerk and countersigned by the mayor.

42. If the treasurer shall fail to pay over all or any monies that shall come into his hands, belonging to said town, when thereto required by the council, it shall be lawful for the council to recover the same upon motion, in the corporate name of the said town, in the circuit court of said county of Tyler, or where the sum does not exceed one hundred dollars, before a justice of the township in which said town is situated, against the treasurer and his sureties, or any or either of them, or his or their legal representatives, after ten days previous notice has been given of such motion.

43. The expense of maintaining any person committed persons committed to the county jail by the mayor, shall be paid by the town.

44. The legal residents of said town shall not be required to work on the roads outside of the corporate limits thereof, and no taxes or levies shall henceforth be assessed upon or collected from the taxable persons or property, within the corporate limits of said town, for the construction and repair of roads outside of said corporate limits, and the board of supervisors of said county, shall not have or exercise any jurisdiction within said corporate limits, in relation to the roads, streets, or alleys.

45. The said town shall proceed without unreasonable delay to put its streets, alleys, walks and gutters in good repair, and shall after that is accomplished, keep the same in that condition.

46. When the said town shall for one year, fail to comply with the requirements of the preceding section, it shall forfeit all the rights and privileges enumerated in this act.

47. All acts heretofore passed, chartering, or amending the charter of said town are hereby repealed.

CHAPTER 8.—An ACT to amend and re-enact Section 11, Chapter 103, of the Acts of the Legislature of West Virginia, passed March 3rd, 1870.

Passed February 3, 1871.

Be it enacted by the Legislature of West Virginia:

"It shall be the duty of said road surveyors to expose all the county roads, one section at a time, at public sale, to the duty. lowest and best bidder, commencing on the first Saturday in April, eighteen hundred and seventy-one, and to continue from day to day, if necessary, until all are sold, and every three years thereafter, commencing on the first Saturday in April, and continuing, as aforesaid, until all are sold; of which sales at least ten days notice shall be given by not less than ten handbills posted in the most public places in the township: Provided, that any person purchasing a contract or contracts at any sale herein provided for shall give bond, with freehold security, to be approved by said surveyors, in a sum to be fixed by said surveyors, for the performance of every contract so purchased."

CHAPTER 9.—An ACT to amend and re-enact Sections one, two and three of Chapter nine, of the Code of West Virginia, in relation to oaths of office.

Passed February 3, 1871.

Be it enacted by the Legislature of West Virginia:

Sections one, two and three of Chapter nine, of the Code of West Virginia, are hereby amended and re-enacted so as to read as follows:

"1. Every person elected or appointed to any office or trust, civil or military, shall, before proceeding to exercise the authority, or discharge the duties of the same, take the following oath: I, A. B., do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia."

"2. He shall also, at the same time, take an oath that he will faithfully and impartially perform the duties of his office to the best of his skill and judgment."

"3. The first Section shall not apply to the case of a person residing in another State or country who is appointed a commissioner by the Governor, or designated, pursuant to law, for any office, agency, or service, to be performed out of this State."

MASON, INDEPENDENT SCHOOL DISTRICT OF,—Continued.

Primary school, 6.....	PAGE.
High schools, 6.....	114
Non resident pupils, 6.....	114
Annual levy, 7.....	114
Lien for taxes, 7.....	115
Treasurer, his duties, etc., 8.....	115
Acts repealed, 8.....	115
Board of treasurer, 8.....	115
Notice to board of Wagner township to meet said board for settlement, 9.....	115
Adjustment of liabilities, 9.....	115

McCABE, BARNEY,

Relief of.....	PAGE.
McCABE, F., HEIRS OF,	207
Relief of.....	207

McCLAREN, JOHN,

Commissioner.....	PAGE.
McGUFFEY, ALEXANDER H.,	34
Commissioner.....	34

MATTHEWS, THOMAS,

Deed to, legalized.....	PAGE.
McCLUNG, ALLEN,	31
Relief of.....	31

\$200 appropriated to pay him in full as commissioner of the revenue for Nicholas county in the year 1864, 21.....

Auditor to draw his warrant in favor of, 2.....

MERCER, ROBERT,

Relief of.....	PAGE.
MERCHANT, MARVIN J.,	34
Commissioner.....	34

METHODIST EPISCOPAL CHURCH,

In Carroll township, Lincoln county, sale authorized.....	PAGE.
At Buckhannon, Upshur county, sale of lot authorized.....	14
At Wheeling, authorized to sell church property.....	14
At West Liberty, authorized to sell part of its lot.....	14
In Pruntytown, authority to sell parsonage of.....	14
At Farmington, authority to sell church property.....	14

MIDDLEBOURNE,

Corporate limits, 21.....	PAGE.
Municipal authorities and common council, 2.....	15
Election, 3.....	15
Term of office, 3.....	15
Town incorporated, 3.....	16
Corporate powers, 3.....	17
Corporate powers to be exercised by council, 4.....	17
Officers appointed by council, 5.....	17
Authority to hold more than one office, 6.....	17
First election, 7.....	17
Inspectors of first election, 7.....	17

MIDDLEBOURNE—Continued.

Notice of election, 8.....	PAGE.
Notice of election to fill vacancies, 9.....	9
Inspectors of election: how qualified, 10.....	9
Duties of inspectors, 10.....	9
Terms of office, 11.....	9
Annual election, 12.....	9
Laws governing election, 13.....	10
Oaths of office: before whom taken, 14.....	10
How oaths must be filed, 14.....	10
Who may administer, 15.....	10
Vacancies in office: how filled, 16.....	10
Qualifications for office, 17.....	10
Tie vote: how decided, 18.....	10
Contested elections, 19.....	10
When councilmen take office, 20.....	10
Failure to qualify as an officer, 21.....	10
Presiding officer, 22.....	11
Journal of council, 23.....	11
Reading of journal, 24.....	11
Yeas and nays, 24.....	11
Casting vote in council, 25.....	11
Powers of council, 26.....	11
Powers of council, 27.....	12
Annual estimate, 28.....	12
Annual levy, 29.....	13
Upon what levy is to be laid, 29.....	13
Tax on dogs, 29.....	13
Exemption from tax, 29.....	13
Fines, how used, 33.....	13
Labor on roads of corporation, 31.....	13
Release from labor on roads, 31.....	13
License, 32.....	13
License to sell liquors, 32.....	13
Sergeant, his powers, duties, compensation, &c., 33.....	13
Lien on real estate for taxes, 34.....	14
Sale of real estate delinquent, 34.....	14
Price of sale, 34.....	14
Sergeant: his duty in relation to taxes, fines, penalties, assessments, etc., 35.....	14
Key in his hands: how disposed of, 35.....	14
Motion against sergeant, 36.....	14
Mayor: his powers, duties and compensation, 37.....	15
Mayor pro tem, 38.....	15
Town clerk, his duties, 39.....	15
Treasurer, his duties, 40.....	15
Office of town to be paid to treasurer, 41.....	16
Motion against treasurer, 42.....	17
Release of persons committed to sale, how paid, 43.....	17
Persons not to work roads outside of corporation, 44.....	17
Persons not to be taxed on roads outside corporation, 44.....	17
Supervisors no jurisdiction over roads of corporation, 44.....	17
Supervisors of roads, 45.....	17
How forfeited, 46.....	17
How repeated, 47.....	17

IN THE COUNTY COMMISSION OF TYLER COUNTY, WEST VIRGINIA
IN RE: REDUCTION OF FRIENDLY PUBLIC
SERVICE DISTRICT BOUNDARIES

ORDER

On the 27th day of October, 1998, came the Town of Middlebourne, by its Counsel, Gary L. Rymer, and came also the citizens Forrest Glover, Nancy Glover, Charles Shepherd, Terri Hayes, Michael Hayes and Tammy Hayes, pursuant to the Notice of Public Hearing which had been posted, published, filed and mailed as previously Ordered.

Thereupon, Counsel for the Town of Middlebourne filed with the Commission the Publisher's Affidavit showing proper publication of Notice of this Hearing and as well affirmed to the Commission that the required Notice had been posted and mailed.

Thereupon, the President of the Commission read a letter from the Friendly Public Service District and filed the same in the proceeding.

Thereupon, the Commission afforded all in attendance an opportunity to be heard. All citizens in attendance expressed their individual approval of the proposed expansion of sanitary sewerage services with some attending expressing some difficulty about right-of-way acquisitions.

Thereafter, on this day, the Commission considered this matter in regular session. Upon Notice duly made, seconded and passed unanimously the Commission does find and Order as follows:

1. The area sought to be deleted from the said Friendly

Public Service District is not currently served by any public utility for sanitary sewerage services and is adjacent to the municipal boundaries of the Petitioner.

2. Petitioner has obtained grant and other funding to extend its sanitary sewerage services to the described area.

3. The said Friendly Public Service District has no objection to the proposed expansion of the area served by Petitioner and has no current plans to extend sanitary sewerage services to the area in question.

4. The extension of sanitary sewerage services by the Petitioner to the area shown on the attached map is necessary in order to furnish sanitary sewerage services to residences and potential businesses located within such area and will be conducive to the promotion of public health and housing standards within such area.

5. There is little to no opposition to the request to reduce the boundaries of the Friendly Public Service District as requested by the Town of Middlebourne.

It is therefore Ordered that:

The boundaries of the Friendly Public District are hereby reduced for Sanitary Sewerage Services to no longer include the area shown on the map of the proposed extension of Sanitary Sewerage Services by the Town of Middlebourne, filed with its Petition of September 29, 1998:

TYLER COUNTY COMMISSION

BY _____
ITS PRESIDENT

PUBLIC WORKS

Section 11-15 Publication of Financial Statement

The board/municipality shall publish a financial statement every year as a Class 1 Legal Advertisement. It shall include all expenditures for the year and who such expenditures went to. It shall also include the money taken in from the bonds and how it was used, plus a report on the debts that had occurred during the year and a final balance. If the board fails these duties, every member concurring in the failure shall be guilty of a misdemeanor and fined not less than one hundred or more than two hundred dollars.

Article 3 - Water and Sewage Works

Section 11-16 Authorization of Water and Sewage Works

This municipality shall have the responsibility for the planning and implementation of a water and sewage system for the citizens of the municipality and those other area residents whom the council deems it feasible to serve. This to be accomplished in keeping with existing State Statutes with regard to Health and Environmental considerations and to be enacted with regard to the health, safety, and public interest of the citizens.

The Council, in keeping with the statutes of the State of West Virginia may engage in contracts for the provision of planning, engineering and construction services with the purpose of providing water service for the residents of this municipality and those other populations to be considered.

Section 11-17 Water Board

The management, control and operation of the municipal waterworks system of the Town of Middlebourne is hereby vested in the Middlebourne Water Board, created, appointed and functioning as hereinafter provided.

Said Board shall consist of three persons, at least two of whom shall be citizens, residents and owners of real property within the Town of Middlebourne, and all of whom shall be persons of outstanding reputation, ability and integrity in said town, and shall be appointed by the Council of said town. The Mayor of said town shall notify all appointees of their election. The terms of the members first appointed shall be as follows: one member for one year, one member for two years and one member for three years from the first day of the month in which appointed. In the event of a vacancy and also prior to or upon the expiration of the term of office of any member, a successor shall be appointed by the Council of said town. All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of three (3) years, and all members shall continue in office until their successors shall have been appointed and qualified. The said Water Board may adopt rules, regulations and by-laws for the time and place of its meetings and the conduct thereof and two members shall constitute a quorum at any meeting. Any member shall be eligible for re-appointment upon the expiration of his term, but, except for the initial appointees, any persons who shall have held an elective office in said town shall not be eligible for appointment until at least one year after the expiration of the last term of office for which he was last elected. The members shall each receive compensation for their services at the rate of \$ ~~5.00~~^{100.00} per year, payable semi-annually, and in addition, shall be reimbursed for any and all expenses incurred in the performance of their duties under order of the said Water Board. Each member shall be removed for just cause by the Council of the Town of Middlebourne by the recorded vote of a majority of said Council after a public hearing thereon.

PUBLIC WORKS

At the first meeting of the said Water Board and annually thereafter it shall organize by designating one of the members to act as Chairman and another to act as Secretary. In so far as permissible by law the Water Board shall appoint a Treasurer who shall be custodian of all funds collected or to be expended by or under order of the Water Board and the Water Board shall designate a bank which is a member of the FDIC as depository of all funds held by said Water Board, but if and to whatever extent any of said provisions for the appointment of a separate Treasurer or for the designation of a depository shall be adjudicated by a court of competent jurisdiction to be unauthorized then the general laws of West Virginia with respect to the custody and deposit of municipal funds shall be applicable. The Chairman shall preside at all meetings when present and shall call special meetings on his own motion, or when requested to do so by any two members. The Secretary shall keep a record of the proceedings which shall be available for inspection as other municipal records. In the event that any member shall be unable to fulfill the duties of his office for a period of six (6) months, a majority of the remainder of the said members may declare the office of such member vacant and the Council of said Town shall thereupon fill such vacancy as otherwise provided for herein.

The Middlebourne Water Board shall have full and complete supervision, management and control of the municipal waterworks system of said town, including the maintenance, operations, improvements and extension thereof. All bills for water and water service shall be collected and accounted for by said Water Board in the manner and form required by law; the Public Service Commission of West Virginia and the ordinances of said town, and all disbursements for the account of said system shall be ordered paid out only upon approval of said Water Board; provided, however, all such supervision, management and control of said system including the collection, depositing and accounting for the income and revenues therefrom and disbursements for the account of said system shall be consistent and in accordance with the ordinance or ordinances pursuant to which said town may have authorized and issued any bonds from time to time outstanding, which by their terms are payable from and secured by the income and revenues of said system.

The Middlebourne Water Board shall have power to employ, fix the compensation of and discharge, a superintendent of said system, and through such superintendent or direct to employ, fix the compensation of and discharge all other employees of the said waterworks system. Each said member shall, upon his taking office, furnish and file with the Recorder of the Town of Middlebourne, for approval by the Council of said Town, his bond in the sum and penalty of \$ 100.00, and the Superintendent of the waterworks system, upon his appointment and taking office, shall furnish and file with the Recorder, for approval by the Council, his bond in the sum and penalty of \$ 1000.00, each bond to be payable to the Town of Middlebourne and conditioned as to the faithful performance of their respective duties as are fixed by this section and according to law.

That the Council of the Town of Middlebourne enacts this section for the assurance and protection of the citizens of said town and for the purpose of assuring the original purchasers and any subsequent holder or holders of any bonds of said town payable from the income and revenues of said system of an efficient operation and maintenance thereof. No amendment of this section shall be enacted unless such amendment shall have been approved in writing by the holders of at least 51% of the principal amount of said revenue bonds then outstanding and a copy of the proposed amendment shall have theretofore been published in a newspaper of general circulation within the Town of Middlebourne once each week for two successive weeks and a public hearing held thereon at a time and place to be fixed in said notice

PUBLIC WORKS

and no repeal of this section shall be enacted so long as there are outstanding any revenue bonds of said town payable from the income and revenues of said municipal waterworks system and it being intended that the provisions of this section shall constitute a contract between the Town of Middlebourne, West Virginia and each and every holder of any such revenue bonds and that the original purchasers of any of such revenue bonds may purchase the same in reliance upon the contract set out herein.

Section 11-18 Rates for Service

This municipality has the power to charge and maintain just and equitable rates to every person using the system and to change these rates from time to time. The revenue gained from such charges shall be used to upkeep the works and pay off debt service requirements. All rates if not paid when charged may constitute a lien, and if not paid in thirty days after the same is due, the amount thereof plus ten percent and the attorneys fee can be gained by the municipality in a Civil Suit, and such suit may be foreclosed against such log, parcel of land or building. If this course of action does not work then the municipality may make application to the public service commission for relief.

Whenever a rate hike is to be put into effect a public hearing shall be held not less than ten days after the proposal after which the hearing shall be held and the rates shall be decided on. A copy of the rates shall be kept with the recorder and open to the public at all times. The aggregate of the rates must be sufficient to maintain the care of the works.

Section 11-19 System of Accounts; Audits

This municipality shall establish an accounting system based on the system of accounts as provided by the West Virginia Public Service Commission for the Water and Sewage Works. These accounts shall be audited annually and the audit should be made open to the public.

Section 11-20 Preparation and Publication of Financial Statement

The clerk of the municipality in charge of the accounting for the water and sewage works shall prepare a monthly income statement to be presented to the mayor and council showing the cash collected and disbursed for the period.

The municipality shall prepare an annual report including a balance sheet, income statement, and list of assets of the water and sewerage works. Such a report shall be prepared in accordance with the format and system of accounts provided by the West Virginia Public Service Commission.

The municipality shall publish a financial statement of water and sewerage works every year as a Class 1 Legal Advertisement.

MEETING OF THE TOWN COUNCIL

DATE 7-10-95 TIME 7:00 P.M.

MEMBERS OF THE GOVERNING BODY PRESENT: Mayor Gayla Fisher, Recorder David M. Smith, Council members Bob Lowther, Cathy Post, Pat Hess, Darcey Ferrell, and Janice Bonner.

MEMBERS OF THE GOVERNING BODY ABSENT:

MEMBERS OF THE PUBLIC PRESENT: Ellis Watson, Sheridan Henderson, Jennie Mason, Kathryn Drost, Amy Westfall, Mary Rohrig and Gary Rymer.

Meeting called to order by Mayor Fisher, Minutes of the council meeting on 6-12-95, were read and approved.

Jeannie Mason spoke to council about doing some work on the entrance to the driveway at the Senior Center on main street. Bob Lowther made a motion to allow the Senior Council to do work on the driveway entrance as long as the work is approved by the Town supervisor, Ellis Watson. Janice Bonner seconded the motion, motion carried. Sheridan Henderson spoke to council about dog problems in Town. She reported that there are a lot of dogs running loose and people are walking dogs and allowing them to defecate in peoples yards. After a little discussion, Mayor Fisher told Mrs. Henderson that she would check into this problem and get back with her on possible solutions. Mayor Fisher welcomed the new council members and encouraged them to solicit public participation in the council meetings. Mayor Fisher appointed Darcey Ferrell and Bob Lowther to the Water Board and Cathy Post and Pat Hess to the street and lights committee and Janice Bonner to the Park committee and Bob Lowther to the trailer committee. Bob Lowther gave his report to council about the water board meeting and Janice Bonner gave her report on the Park and Gym. Mayor Fisher gave her report on the negotiations with cable companies. Kathryn Drost from the M.O.V.R.C. spoke to council about the small cities block grant application for Middlebourne/Bridgeway sewer project. After much discussion, Bob Lowther made a motion to authorize the Mayor to sign the grant application for this project. Janice Bonner seconded the motion, motion carried. Also council passed a resolution in support of this project. Janice Bonner made a motion to approve budget revision No. 1, of the general budget for 1995-96, Bob Lowther seconded the motion, motion carried. (See Budget document for details) After some discussion, Janice Bonner made a motion to get at least two more bids for the completion of the renovation of the old water treatment plant. Bob Lowther seconded the motion, motion carried. Bob Lowther made a motion to adjourn, Pat Hess seconded the motion, motion carried, meeting adjourned.

ATTEST David M. Smith DATE 7-10-95

MAYOR Gayla Fisher DATE 7-17-95

6 ay 19

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Mayor of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Gayla Stishow

Subscribed and sworn to before me in said County and State this
1st Day of July, 1999.

David M. Smith

Recorder

Town of Middlebourne

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Recorder of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Beth A. From

Subscribed and sworn to before me in said County and State this
12th Day of July, 1999.


David M. Smith

Recorder
Town of Middlebourne

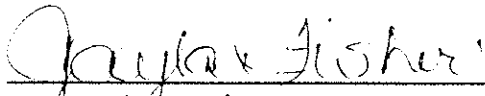
OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Council member of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.



Subscribed and sworn to before me in said County and State this
12TH Day of July, 1999.



~~Recorder~~ *Mayer*
Town of Middlebourne

Pam

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Council member of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Dorela C. Farhart

Subscribed and sworn to before me in said County and State this
12 Day of July, 1999.

Jayla Fisher
~~Recorder~~ Mayor
Town of Middlebourne

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Council member of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

James Bonner

Subscribed and sworn to before me in said County and State this
12th Day of July, 1999.

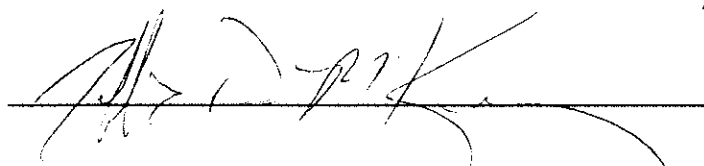
Cheryl Fisher

~~Recorder~~ Mayor
Town of Middlebourne

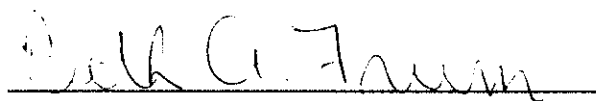
OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Council member of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.



Subscribed and sworn to before me in said County and State this
9th Day of August, 1999.



Recorder
Town of Middlebourne

Vera

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Council member of the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Vera P. Hawthorn

Subscribed and sworn to before me in said County and State this

20th Day of Aug., 1999.

David M. Smith

Recorder

Town of Middlebourne

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Middlebourne Sewer Board for the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Gayla Fisher

Subscribed and sworn to before me in said County and State this
4 Day of Aug., 1999.

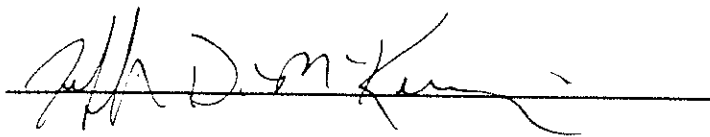
Gayla Fisher David M. Smith
Mayor TREASURER
Town of Middlebourne

JEFF

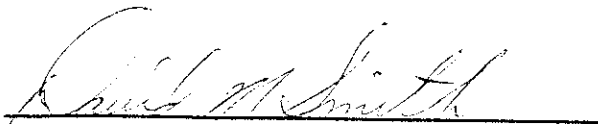
OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Water and Sewer Board Member of the Town of Middlebourne, to the best of my skill and judgement
SO HELP ME GOD.



Subscribed and sworn to before me in said County and State this
12th Day of July 1999.



Treasurer
Town of Middlebourne

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Middlebourne Sewer Board for the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Cathy D. Post

Subscribed and sworn to before me in said County and State this
4 Day of Aug., 1999.

Gaylan Fisher
Mayor
Town of Middlebourne

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Middlebourne Sewer Board for the Town of Middlebourne, to the best of my skill and judgement SO HELP ME GOD.

Bertie D. Archer

Subscribed and sworn to before me in said County and State this
4 Day of Aug., 1999.

Gayla Fisher

Mayor
Town of Middlebourne

Janice

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE

TO WIT: I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Water and Sewer Board Member of the Town of Middlebourne, to the best of my skill and judgement
SO HELP ME GOD.

James Bonner

Subscribed and sworn to before me in said County and State this
12th Day of July, 1999.

~~James Bonner~~ David Smith
Treasurer
Town of Middlebourne

PETITION OF THE SANITARY BOARD
OF THE TOWN OF MIDDLEBOURNE,
WEST VIRGINIA

TO THE COUNCIL OF THE TOWN OF MIDDLEBOURNE, WEST VIRGINIA

Pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended, the Sanitary Board (the "Sanitary Board") of the Town of Middlebourne, West Virginia (the "Town"), hereby petitions the Council to enact an ordinance which shall:

(a) set forth a brief and general description of and plan for construction of additions, improvements and betterments to the sewer system of the Town in accordance with plans and specifications (the "Project") prepared or to be prepared and filed by Cerrone & Associates, Inc. (the "Engineer"), including the report of the Engineer, a copy of which is filed with the Board and the Town;

(b) set forth the amount needed to pay the costs of the Project which is estimated to be \$3,014,300 for the costs of acquiring, constructing and equipping the Project and refinancing certain existing debt including loans in the amounts of \$800,000, \$375,000 and \$120,000;

(c) order completion of the acquisition and construction of additions, improvements and betterments to the sewer system of the Town as outlined in the Engineer's report;

(d) direct that sewer revenue and sewer revenue refunding bonds of the Town be issued pursuant to Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended (the "Act"), with such bonds to be in the aggregate amounts of \$800,000, \$375,000 and \$120,000, to pay a portion of the cost of acquiring and constructing the Project and refinancing certain existing debt and direct that sewer revenue and sewer revenue refunding bonds of the Town be issued at the earliest possible date pursuant to the Act;

(e) contain such other provisions as may be necessary in the premises to implement the Project.

This Petition was duly authorized at a meeting of the Sanitary Board duly called and held on the 4 day of Aug, 1999.

WITNESS our signatures on this 4 day of Aug, 1999.

THE SANITARY BOARD OF THE TOWN
OF MIDDLEBOURNE, WEST VIRGINIA

By: Gayla Fisher

By: Jamie Brown

By: Dertie L. Archer

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE), SERIES 1999A;

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B;

and
\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

BOND ORDINANCE

Table of Contents

	<u>Subject</u>	<u>Page</u>
ARTICLE I		
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS		
Section 1.01.	Authority for this Ordinance	1
Section 1.02.	Findings and Determinations	1
Section 1.03.	Ordinance to Constitute Contract	4
Section 1.04.	Definitions	4
ARTICLE II		
AUTHORIZATION OF PROJECT		
Section 2.01.	Authorization of Acquisition and Construction of the Project	9
Section 2.02.	Authorization for Issuer to Accept Letter of Conditions	10
Section 2.03.	Authorization for Issuer to Enter Into Loan Agreement	10
Section 2.04.	Authorization for Issuer to Accept Loan Commitment Letter	10
Section 2.05.	Designation of Parties	10

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION
AND ISSUANCE OF BONDS

Section 3.01.	Authorization of Bonds	10
Section 3.02.	Description of Bonds	10
Section 3.03.	Execution of Bonds	12
Section 3.04.	Negotiability, Registration, Transfer and Exchange of Bonds	12
Section 3.05.	Registrar	13
Section 3.06.	Bonds Mutilated, Destroyed, Stolen or Lost	13
Section 3.07.	Bonds not to be Indebtedness of the Issuer	13
Section 3.08.	Bonds Secured by Pledge of Revenues	13
Section 3.09.	Form of Bonds	14
	(FORM OF BONDS)	15
Section 3.10.	Sale of Bonds; Acceptance of Letter of Conditions from RUS; Ratification of Execution of Loan Agreement with Authority and DEP; Incorporation of Terms	37
Section 3.11.	Prohibition of Other Loans	37
Section 3.12.	Certificate of Consulting Engineers	37
Section 3.13.	"Amended Schedule B" Filing	37

ARTICLE IV
INTERIM CONSTRUCTION FINANCING

Section 4.01.	Authorization and General Terms	37
Section 4.02.	Terms of and Security for Notes	38
Section 4.03.	Notes are Special Obligations	38
Section 4.04.	Execution of Documents	38

ARTICLE V
REVENUES AND APPLICATION THEREOF;
DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 5.01.	Establishment of Funds and Accounts with Depository Bank	38
Section 5.02A.	Establishment of Fund and Account with Depository Bank	38
Section 5.02B.	Establishment of Funds and Accounts with Commission	39
Section 5.03.	Bond Proceeds; Project Construction Accounts	39
Section 5.04	Deposit in the Refunding Fund	39

Section 5.05.	Covenants of the Issuer as to Revenues and Funds	39
Section 5.06.	Excess Bond Proceeds	46

ARTICLE VI BOND PROCEEDS; DISBURSEMENTS

Section 6.01.	Application of Bond Proceeds	46
Section 6.02.	Series 1999A Bond Proceeds; Project Construction Account	46
Section 6.03	Disbursements from the Series 1999B Project Construction Account	47

ARTICLE VII GENERAL COVENANTS

Section 7.01.	General Statement	48
Section 7.02.	Bonds not to be Indebtedness of the Issuer	48
Section 7.03.	Bonds Secured by Pledge of Net Revenues	48
Section 7.04.	Rates	48
Section 7.05.	Completion, Operation and Maintenance; Schedule of Costs	49
Section 7.06.	Sale of the System	49
Section 7.07.	Issuance of Additional Parity Bonds or Obligations	50
Section 7.08.	Parity Bonds	51
Section 7.09.	Books, Records and Facilities	53
Section 7.10.	Compliance with Loan Agreement, Rules and Regulations	54
Section 7.11.	Insurance and Bond	54
Section 7.12.	Statutory Mortgage	56
Section 7.13.	Fiscal Year; Budget	56
Section 7.14.	Compensation of Members of Governing Body	56
Section 7.15.	Covenant to Proceed and Complete	56
Section 7.16.	Books and Records; Audits	56
Section 7.17.	Engineering Services and Operating Personnel	57
Section 7.18.	No Competition	57
Section 7.19.	Tax Covenants as to Tax Exempt Status of Bonds	58
Section 7.20.	Enforcement of Collections	59
Section 7.21.	No Free Services	59
Section 7.22.	Mandatory Connections	60

Section 7.23.	Completion and Operation of Project; Permits and Orders	60
Section 7.24.	Securities Law Compliance	60
Section 7.25	Public Service Commission Approval	60

ARTICLE VIII INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01.	Investments	61
Section 8.02.	Arbitrage	61
Section 8.03.	Tax Certificate and Rebate	61
Section 8.04.	Restriction of Yield and Bond Proceeds	62

ARTICLE IX DEFAULT AND REMEDIES

Section 9.01.	Events of Default	62
Section 9.02.	Remedies	62
Section 9.03.	Appointment of Receiver	63

ARTICLE X DEFEASANCE

Section 10.01.	Defeasance of Bonds	64
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ARTICLE XI RATES, RULES, COVENANTS, ETC.

Section 11.01.	Initial Schedule of Rates and Charges	65
Section 11.02	Further Covenants	65

ARTICLE XII MISCELLANEOUS

Section 12.01.	Filing Under Uniform Commercial Code	66
Section 12.02.	Delivery of Bonds	66
Section 12.03.	Severability of Invalid Provision	66
Section 12.04.	Amendment or Modification of Ordinance	66
Section 12.05.	Ordinance Constitutes Contract	66
Section 12.06.	Conflicting Provisions Repealed	66
Section 12.07.	Table of Contents and Headings	67
Section 12.08.	Covenant of Due Procedure, Etc.	67
Section 12.09.	Supplemental Resolutions	67
Section 12.10.	Effective Time	67
Section 12.11	Statutory Notice and Public Hearing	67

TOWN OF MIDDLEBOURNE, WEST VIRGINIA

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A, SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B, AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, OF THE TOWN OF MIDDLEBOURNE, IN THE AMOUNTS OF \$800,000, \$375,000 AND \$120,000, RESPECTIVELY, TO FINANCE A PORTION OF THE COSTS OF THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC SEWER SYSTEM AND REFUND CERTAIN EXISTING INDEBTEDNESS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; APPROVING AND RATIFYING A LETTER OF CONDITIONS RELATING TO THE SERIES 1999A BONDS, A LOAN AGREEMENT RELATING TO THE SERIES 1999B BONDS AND A COMMITMENT LETTER RELATING TO THE SERIES 1999C BONDS; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BONDS; PROVIDING STATUTORY LIEN ON SYSTEM; PROVIDING FOR THE ENACTMENT, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC SEWER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF TOWN OF MIDDLEBOURNE, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Ordinance") is enacted pursuant to the provisions of Chapter 16, Article 13, Chapter 22C, Article 2 and Chapter 13, Article 2E of the West Virginia Code, as amended (collectively, the "Act") and other applicable provisions of law.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. Town of Middlebourne (the "Town" or "Issuer") is a municipal corporation and political subdivision of the State of West Virginia located in Tyler County, West Virginia.

B. The Issuer now has a public sewer system and desires to improve and expand that system and it is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered,

that there be acquired and constructed certain additions, betterments and improvements to the existing public sewer system of the Issuer known as the "System" (sometimes referred to herein as the "System") so as to improve the public health, comfort and convenience of residents of the Town, including the construction and installation of all necessary appurtenant facilities (the "Project"), and generally described as sewer line extensions, pumps, pumping stations, treatment plant improvements and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer for the Project and heretofore filed in the office of the Recorder of the Town Council (the "Governing Body") of the Issuer. The construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue and refunding revenue bonds in the aggregate principal amounts of \$800,000, \$375,000 and \$120,000, respectively, to finance a portion of the costs of such construction and to refund certain existing indebtedness in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is \$3,014,300, which will be obtained from the proceeds of sale of the Series 1999A and Series 1999B Bonds herein authorized and from grants to be made by RUS, as hereinafter defined, and by the State of West Virginia, in the amounts of \$572,500 and \$402,400, respectively. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or any interest therein; interest on the Bonds prior to, during and for six (6) months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

E. In accordance with Section 18 of Chapter 16, Article 13, the System will be under the supervision and control of the Sanitary Board of the Issuer (the "Board"). The Board has approved and delivered a Petition to the Issuer requesting the enactment of this Ordinance and the issuance of the Series 1999A, Series 1999B and Series 1999C Bonds, as hereinafter defined.

F. The Issuer is the beneficiary of Small Cities Block grants in the amounts of \$375,000 and \$744,400, an RUS grant in the amount of \$572,500, and an Advance Assistance grant from the State of West Virginia in the amount of \$27,400, the proceeds of which, together with the proceeds of the Series 1999A and Series 1999B Bonds, will be used to acquire, construct and equip the Project.

G. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

H. There is currently an outstanding obligation of the Issuer which will be redeemed with the proceeds of the Series 1999C Bonds, being the Sewer Revenue Bond of the Issuer, dated

January 1, 1973 (the "1973 Bond") issued in the original principal amount of \$215,000 secured under the terms of the 1973 Ordinance (hereinafter defined). The 1973 Bond is being refunded to eliminate certain burdensome covenants contained in the 1973 Ordinance which unduly limit the Issuer's ability to incur new debt and construct the Project.

With the exception of the 1973 Bond described above, there are no other outstanding bonds or obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien, pledge and/or source of and security for payment.

I. The Issuer is not in default under the terms of the 1973 Ordinance or any document in connection therewith. The Issuer intends to use the proceeds of the Series 1999C Bonds to redeem the 1973 Bond in whole.

J. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

K. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds, or will have so complied prior to issuance of the Bonds including, among other things, the imposition of rates and charges and the consent and approval, pursuant to the Act, of the issuance of the Bonds by the Public Service Commission of West Virginia by final order. The Issuer has received the approval of the West Virginia Infrastructure and Jobs Development Council.

L. It is in the best interests of the Issuer that the Series 1999A Bonds be sold to the United States Department of Agriculture, Rural Utilities Service, successor in interest to the Farmers Home Administration (the "Purchaser" or "RUS"), pursuant to the terms and provisions of a Letter of Conditions dated January 26, 1996, and all amendments thereto, that the Series 1999B Bonds be sold to the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and provisions of a Loan Agreement, and all amendments thereto, and that the Series 1999C Bonds be sold to the Union Bank of Tyler County (the "Bank"), pursuant to the terms and provisions of an undated commitment letter from the Bank.

M. The Issuer has also made arrangements for interim financing as requested by RUS and deems it to be in the best interests of the Issuer to enter into a Credit Agreement and execute a note or notes in the initial amount of \$450,000 payable to any interim construction or financing lender which lender is initially Union Bank of Tyler County.

N. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and System, and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(c) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 in aggregate principal amount of tax-exempt obligations

during the calendar year in which the Bonds for the construction phase are to be issued.

O. The Issuer hereby designates the Series 1999C Bonds as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Code, as hereafter defined.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bonds by the Purchaser, this Ordinance (the "Ordinance") shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond of a Series and any other Bonds of the same Series, by reason of priority of issuance or otherwise, except as expressly provided therein or herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13, Chapter 22C, Article 2 and Chapter 13, Article 2E of the West Virginia Code, as amended.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Series 1999B Bonds, and any successor thereto.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bank" means the Union Bank of Tyler County, Middlebourne, West Virginia, a state banking corporation with its principal office in Tyler County of said State, and any successor thereto.

"Board" means the Sanitary Board of the Issuer, as created and appointed by ordinance enacted by the Governing Body of the Issuer pursuant to the provisions of § 16-13-18, and any successor thereto.

"1999 Bonds" or "Bonds" means collectively, the \$800,000 Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, the \$375,000 Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B, and the \$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, authorized by this ordinance.

"1973 Bond" means the outstanding bonds of the Issuer dated January 1, 1973, described in Section 1.02 F herein to be refunded with the Series 1999C Bonds.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by RUS, the Authority and the Bank.

"Code" means the Internal Revenue Code of 1986, as amended, and including all Regulations promulgated pursuant thereto, and any successors thereto.

"Commission" means the West Virginia Municipal Bonds Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineer" means Cerrone & Associates, Inc., Wheeling, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Costs" or "Costs of the Project" means those costs described in Section 1.02 hereof to be a part of the cost of acquisition and construction of the Project.

"DEP" means the West Virginia Division of Environmental Protection, or any other agency of the State of West Virginia that succeeds to the functions of DEP.

"Depository Bank" means initially the Union Bank of Tyler County, Middlebourne, West Virginia, a bank or trust company which is a member of FDIC and its successors and assigns or such other qualified bank or trust company designated now or hereafter by Issuer.

"Facilities" or "Sewer facilities" means all the land and tangible properties of the System and also any tangible properties which may hereafter be added to the sewer system by addition, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Town Council of the Issuer.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Herein" means in this Ordinance.

"Holders of the Bonds" or any similar term means any person who shall be the registered owners of the Bonds.

"Issuer" or "Town" means Town of Middlebourne, Tyler County, West Virginia, and, where appropriate, also means the Governing Body.

"Letter of Conditions" means the Letter of Conditions from the United States Department of Agriculture, Rural Utilities Service, to the Town, dated January 26, 1996, and any amendments thereto.

"Loan Agreement" means the Loan Agreement to be entered into among the Authority, the West Virginia Division of Environmental Protection, and the Issuer, and any amendments thereto, which provides for the purchase of the Series 1999B Bonds from the Issuer by the Authority, the form of which may be approved, and the execution and delivery by the Issuer authorized and directed or ratified herein.

"Loan Commitment Letter" means the undated letter from Union Bank of Tyler County to the Issuer approving the purchase of approximately \$120,000 of the Issuer's Series 1999C Bonds.

"Mayor" means the Mayor of the Governing Body.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Bond Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of Operating Expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund and Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Ordinance" means this Ordinance and all resolutions supplemental hereto.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to their principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or any Bonds registered to the Issuer.

"1973 Ordinance" means the ordinance providing for the 1973 Bond, adopted April 16, 1973.

"Paying Agent" means the West Virginia Municipal Bond Commission, its successors and assigns, as to the Series 1999B and Series 1999C Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" shall have the meaning stated in Section 1.02 B. above.

"Purchaser" means RUS, the Authority and the Bank as the purchasers of the Series 1999A Bonds, Series 1999B Bonds, and Series 1999C Bonds, respectively, and any successors thereto.

"Qualified Investments" means and include any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidence of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bonds, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured

by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bonds dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Investment Management Board pursuant to Chapter 12, Article 6, of the West Virginia Code of 1931, as amended; provided that investments in such fund on behalf of the Issuer shall be restricted to Qualified Investments other than that described in this paragraph (h); and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Governing Body.

"Registered Owner", "Bondholder" or "Holder" or any similar term means whenever used herein with respect to an outstanding Bond, the person or entity in whose name such Bond is registered.

"Registrar" or "Bond Registrar" means the Issuer, as to the Series 1999A Bonds, which usually shall act by its Recorder, and the Union Bank of Tyler County as to the Series 1999B and 1999C Bonds.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting principles.

"RUS" or "Rural Utilities Service" means the United States of America, United States Department of Agriculture, Rural Utilities Service, and any successor thereto.

"Series 1999A Bonds" mean the \$800,000 Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A.

"Series 1999B Bonds" means the \$375,000 Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B.

"Series 1999C Bonds" means the \$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C.

"SRF Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Regulations" mean the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"System" means the Project initially, and all existing sewer facilities owned by the Issuer and all Facilities and other property of every nature, real or personal, now or hereafter acquired and/or owned, held or used in connection with the System, including mains, valves, reservoirs, pumps, machinery, treatment or purification plants and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a public sewer system; and shall also include any and all additions, extensions, improvements, replacements, properties or other facilities at any time acquired or constructed for said sewer system after completion of the Project.

"Tap Fees" means the fees, if any, paid by prospective customers of the system in order to connect thereto.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter genders shall include any other gender; and any requirement for execution, sealing and/or attestation of the Bonds or any certificate or other document by the Recorder shall mean that such Bond certificate or other document may be executed, sealed and/or attested by an Acting Recorder.

ARTICLE II

AUTHORIZATION OF PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$3,014,300, including \$800,000, \$375,000 and \$120,000 in bonded indebtedness, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof. The Issuer has received bids and entered into contracts for the acquisition, construction and equipping of the Project compatible with the financing plan submitted to DEP and RUS.

Section 2.02. Authorization for Issuer to Accept Letter of Conditions. The Issuer hereby accepts and approves the Letter of Conditions and the sale of the Series 1999A Bonds pursuant to the Letter of Conditions. The Mayor is hereby authorized and directed to accept and receive the Letter of Conditions from RUS.

Section 2.03. Authorization for Issuer to Enter Into Loan Agreement. The Issuer hereby approves the Loan Agreement and the sale of the Series 1999B Bonds pursuant to the Loan Agreement. The Mayor is hereby authorized and directed to execute and deliver the Loan Agreement to the Authority.

Section 2.04. Authorization for Issuer to Accept Loan Commitment Letter. The Issuer hereby accepts and approves the Loan Commitment Letter and the sale of the Series 1999C Bonds pursuant to the Loan Commitment Letter. The Mayor is hereby authorized and directed to accept and receive the Loan Commitment Letter from the Bank.

Section 2.05. Designation of Parties. The Issuer hereby designates Union Bank of Tyler County, Middlebourne, West Virginia, to serve as the Registrar for the Series 1999B and 1999C Bonds and as the Depository Bank. The West Virginia Municipal Bond Commission is hereby designated as Paying Agent for the Series 1999B and 1999C Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUANCE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions hereof, the Bonds of the Issuer to be known as "Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A" in the principal amount of \$800,000, and "Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B" in the principal amount of \$375,000, are hereby authorized to be issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project, and the Bonds of the Issuer to be known as "Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler

County), Series 1999C" in the principal amount of \$120,000, are hereby authorized to be issued for the purpose of redeeming the 1973 Bond in full.

Section 3.02. Description of Bonds. The Series 1999A Bonds shall be issued as a single registered form, No. AR-1, and shall be dated on the date of delivery. The Series 1999A Bonds shall bear interest on the amount outstanding from the date of issuance, payable monthly at a maximum rate of four and 75/100 percent (4.75%) per annum, or such lower rate that RUS will make available at closing, and shall be sold for the par value thereof but in no event greater than four and 75/100 percent (4.75%) per annum.

The Series 1999B Bonds shall be dated on the date of delivery. The Series 1999B Bonds shall bear interest from the date of completion of the Project, payable quarterly at a maximum rate of two percent (2.0%) per annum plus a one percent (1%) administrative fee per annum and shall be sold for the par value thereof, as set forth in the Loan Agreement.

Repayment of principal and interest on the Series 1999B Bonds shall begin December 1, 2000, (with the first payment to the Municipal Bond Commission due on September 1, 2000) and be payable quarterly thereof on each March 1, June 1, September 1 and December 1, to and including September 1, 2020. The administrative fee shall be payable quarterly. The Series 1999B Bonds shall mature in twenty-one (21) years, with the final payment on September 1, 2020 and shall be redeemable in whole or in part, all as prescribed herein. The Series 1999B Bonds shall be payable as to principal and interest at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal and interest, is legal tender for the payment of public or private debts under the laws of the United States of America.

Unless otherwise provided by a Supplemental Resolution, the Series 1999B Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal and interest amount, and shall mature in principal and interest installments, as provided in said Series 1999B Bonds. The Series 1999B Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal and interest installments of said Series 1999B Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Series 1999B Bonds shall be issued in fully registered form and in denominations and at such interest rates and shall be payable as determined by a new Bond Ordinance.

The Series 1999C Bonds shall be dated on the date of delivery. The Series 1999C Bonds shall bear interest from date, payable semiannually, at a rate of five percent (5.0%) per annum and shall be sold for the par value thereof.

Repayment of principal and interest on the Series 1999C Bonds shall begin January 1, 2000. The Series 1999C Bonds shall mature with the final payment on January 1, 2013, and shall be redeemable in whole or in part, all as prescribed herein. The Series 1999C Bonds shall be payable as to principal and interest at the office of the Paying Agent, in any coin or currency

which, on the dates of payment of principal and interest, is legal tender for the payment of public or private debts under the laws of the United States of America.

Unless otherwise provided by a Supplemental Resolution, the Series 1999C Bonds shall be issued in the form of a single bond, fully registered to the Bank, with a debt service schedule attached, representing the aggregate principal and interest amount, and shall mature in principal and interest installments, as provided in said Series 1999C Bonds. The Series 1999C Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series Outstanding and being exchanged, with principal and interest installments of said Series 1999C Bonds.

Subsequent series of 1999C Bonds shall be issued in fully registered form and in denominations and at such interest rates and shall be payable as determined by a new Bond Ordinance.

The Bonds shall be subject to prepayment of scheduled installments, or any portion thereof, at the option of the Issuer and shall be payable as provided in the Bond forms hereinafter set forth.

Section 3.03. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Mayor and its corporate seal shall be affixed thereto and attested by the Recorder, and the Mayor and the Recorder are hereby authorized to execute the Bonds and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

No Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bonds, substantially in the form set forth in Section 3.09 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bonds shall be conclusive evidence that such Bonds have been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bonds shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability, Registration, Transfer and Exchange of Bonds. The Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bonds may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05

hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. No interest in the Bonds shall be transferable except by means of transfer of registration of Bonds representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Ordinance.

Whenever the Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

No registration of transfer of the Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on that Bonds.

Section 3.05. Registrar. The Issuer shall be the Bond Registrar for the Series 1999A Bonds only. The Union Bank of Tyler County shall be the Bond Registrar for the Series 1999B and 1999C Bonds. The Registrar will keep or cause to be kept by its agent at its office, sufficient books for the registration and transfer of the Bonds, and upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided.

The Registrar shall accept the Bonds for registration or transfer only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or social security numbers of the settlor and beneficiaries of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any of the Bonds shall become mutilated or be destroyed, stolen or lost, the Registrar may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Registrar proof of his, her or its ownership thereof and complying with such other reasonable regulations and conditions as the Registrar may require. The Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the net revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1999 Bond

Reserve Accounts, as created in Sections 5.02A and 5.02B. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Revenues. The payment of the debt service of the Series 1999A, 1999B and 1999C Bonds shall be secured forthwith by a parity first lien on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 1999A, 1999B and 1999C Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1999A, 1999B and 1999C Bonds as the same become due on a parity basis.

Section 3.09. Form of Bonds. Subject to the provisions hereof, the text of the Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or any supplemental resolution adopted after the date of adoption hereof and prior to the issuance thereof.

(FORM OF 1999A BOND)

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS (RURAL UTILITIES SERVICE),
SERIES 1999A

No. AR-1

Date: August 27, 1999

FOR VALUE RECEIVED, the TOWN OF MIDDLEBOURNE, a municipal corporation and political subdivision of the State of West Virginia, in Tyler County of said State (herein called "Issuer"), hereby promises to pay to the order of the United States of America (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Eight Hundred Thousand and 00/100 Dollars (\$800,000.00), plus interest on the unpaid principal balance at the rate of four and 75/100 percent (4.75.0%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$3,800.00 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Issuer as requested by Issuer and approved by the Government, and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto and made a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to the principal. Payments shall be made to the Government and mailed to the address as it appears on the books of the Issuer. Provided, however, for so long as the Government remains the owner of this Bond, the Issuer shall remit payments directly to the Government or any agency or department thereof.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Issuer. Refunds and extra payments, as defined in the regulations of the Rural Utilities Service, according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Issuer shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Issuer may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Issuer, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Government without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with the Issuer's Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C and any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction of improvements to a sewer system (the "System") or refunding existing debt of the Issuer, are payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

This Bond is payable only from and secured by a parity pledge of the net revenues to be derived from the operation of the system, from moneys in the Series 1999A Bonds Reserve Account created under the Ordinance for the Bonds and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C. Such net revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the

moneys in the Series 1999A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on the Bonds and the Series 1999B Bonds and Series 1999C Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999A Bonds Reserve Account amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999B and Series 1999C Bonds Reserve Accounts, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description hereof.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Issuer, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Bond Ordinance enacted by the Issuer and effective on August 26, 1999, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government,

This Bond is given as evidence of a loan to Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B AND THE SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505-7500.

This Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as set forth in Exhibit M of subpart G of Part 1940 of Title 7 of the Code of Federal Regulations, as amended.

IN WITNESS WHEREOF, the TOWN OF MIDDLEBOURNE has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

TOWN OF MIDDLEBOURNE

(SEAL)

By: _____
Mayor
100 Main Street
Middlebourne, WV 26149

ATTEST:

By: _____
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999A Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August __, 1999

UNION BANK OF TYLER COUNTY

By: _____

Its: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

DATED: _____

(Assignor)

Witnessed in the presence of:

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$	August 27, 1999	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
TOTAL \$ _____			

EXHIBIT B

DEBT SERVICE SCHEDULE

(FORM OF 1999B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS (STATE REVOLVING FUND),
SERIES 1999B

No. BR-1

\$375,000

Date: August 27, 1999

KNOW ALL MEN BY THESE PRESENTS: That THE TOWN OF MIDDLEBOURNE, WEST VIRGINIA, a municipal corporation and political subdivision of the State of West Virginia in Tyler County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the order of the West Virginia Water Development Authority (the "Authority") or registered assigns, the sum of Three Hundred Seventy-five Thousand and 00/100 Dollars (\$375,000.00), or such lesser amount as set forth on the Record of Advances attached as Exhibit A hereto and incorporated herein by reference, plus interest on the unpaid principal balance hereof at the rate set out below. Interest on this Bond is set at zero percent (0%) per annum until _____, 20__; thereafter interest shall be paid on the unpaid principal balance at the rate of two percent (2%) per annum plus a one percent (1%) annual administrative fee payable quarterly. Principal and interest on the Bond is payable in quarterly installments commencing December 1, 2000, and thereafter in quarterly installments on each March 1, June 1, September 1 and December 1, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The final installment of principal and interest shall be paid at the end of twenty (20) years from the date interest begins to accrue on this Bond and shall be in an amount equal to the amount of outstanding principal and interest due on the Bond at said date. Notwithstanding any provision of this Bond to the contrary, this Bond shall evidence only the indebtedness reflected as outstanding on the Record of Advances attached hereto. Interest shall accrue only on the amount of each advance from its actual date as listed on said Record of Advances and shall cease to accrue on the amount outstanding, or portions thereof, as the same is paid, as reflected by said Record of Advances.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). Principal and interest on this Bond are payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Union Bank of Tyler County, Middlebourne, West Virginia (the "Registrar"), on the 15th day of the month next preceding such payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole at par, but only upon thirty (30) days prior written notice to the Authority and the West Virginia Division of Environmental Protection ("DEP") and upon the terms and conditions prescribed by and otherwise in compliance with the Loan Agreement by and among the Issuer, the Authority and DEP.

This Bond is issued (i) to pay a portion of the costs of construction of certain additions, betterments and improvements to the public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The sewer system of the Issuer, together with the Project, and any further extensions, additions, betterments or improvements thereto is herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer and effective on August 26, 1999 (the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bond under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, from moneys in the Reserve Account created under the Ordinance for the Bonds (the "Series 1999B Bonds Reserve Account") and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on this Bond as well as the Series 1999A and 1999C Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999B Bonds Reserve Accounts amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999A and 1999C Bonds Reserve Accounts, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirement therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as set forth in Exhibit M of subpart G of Part 1940 of Title 7 of the Code of Federal Regulations, as amended.

IN WITNESS WHEREOF, THE TOWN OF MIDDLEBOURNE has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder and has caused this Bond to be dated August 27, 1999.

THE TOWN OF MIDDLEBOURNE, WEST
VIRGINIA

[SEAL]

By: _____
Mayor

ATTEST:

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999B Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August __, 1999

UNION BANK OF TYLER COUNTY

By: _____

Its: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

Dated: _____

(Assignor)

Witnessed in the presence of :

EXHIBIT A
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1)	August 27, 1999	(6)	
(2)		(7)	
(3)		(8)	
(4)		(9)	
(5)		(10)	
		TOTAL	\$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

(FORM OF 1999C BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BOND
(UNION BANK OF TYLER COUNTY)
SERIES 1999C

No. CR-1

\$120,000

Date: August 27, 1999

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF MIDDLEBOURNE, WEST VIRGINIA, a municipal corporation and political subdivision of the State of West Virginia in Tyler County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the order of the Union Bank of Tyler County (the "Bank") or registered assigns, the sum of One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00), plus interest on the unpaid principal balance hereof at a rate of five percent (5%) per annum. Principal and interest on the Bond is payable in semiannual installments commencing January 1, 2000, and thereafter in semiannual installments on each January 1 and July 1, as set forth on the "Debt Service Schedule" attached as Exhibit A hereto and incorporated herein by reference.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). Principal and interest on this Bond are payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Union Bank of Tyler County, Middlebourne, West Virginia (the "Registrar"), on the 15th day of the month next preceding such payment date, or by such other method as shall be mutually agreeable so long as the Bank is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole at par upon thirty (30) days prior written notice to the Bank.

This Bond is issued to redeem in full the outstanding principal balance and all accrued interest thereon represented by the Issuer's Sewer Revenue Bonds, Series 1973. The sewer system of the Issuer, together with the Project, and any further extensions, additions, betterments or improvements thereto is herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 13, Article 2E of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer and effective on August 26, 1999 (the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional

bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bond under the Ordinance.

This Bond is payable only from and secured by a parity pledge of the net revenues to be derived from the operation of the System, from moneys in the Series 1999C Bonds Reserve Account created under the Ordinance for the Bonds and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and Sewer Revenue Bonds (State Revolving Fund), Series 1999B. Such net revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on the Bonds and the Series 1999A Bonds and Series 1999B Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999C Bonds Reserve Account amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999A and Series 1999B Bonds, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond shall be applied solely to the payment of the principal of and interest on the 1973 Bond, as described in the Ordinance, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A AND SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE TOWN OF MIDDLEBOURNE has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder and has caused this Bond to be dated August 27, 1999.

THE TOWN OF MIDDLEBOURNE, WEST
VIRGINIA

[SEAL]

By: _____
Mayor

ATTEST:

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999C Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August __, 1999

UNION BANK OF TYLER COUNTY

By: _____

Its: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

Dated: _____

(Assignor)

Witnessed in the presence of :

EXHIBIT A

DEBT SERVICE SCHEDULE

Section 3.10. Sale of Bonds; Acceptance of Letter of Conditions from RUS; Ratification of Execution of Loan Agreement with Authority and DEP; Incorporation of Terms. The Series 1999A Bonds shall be sold to RUS, pursuant to the terms and conditions of the Letter of Conditions, the Series 1999B Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement, and the Series 1999C Bonds shall be sold to the Bank, pursuant to the terms and conditions of the Bank's commitment letter. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Letter of Conditions and the Loan Agreement in substantially the forms attached hereto as "Exhibit A" and made a part hereof, with such changes, insertions and omissions as may be approved by the Mayor, the execution of which shall be conclusive evidence of such approval, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to DEP and the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, as the same may be amended and/or supplemented, and the terms and provisions thereof are herein incorporated by reference thereto.

Section 3.11. Prohibition of Other Loans. So long as the Bonds are outstanding, no bonds or other evidences of indebtedness against the System shall be issued by the Issuer without the prior written consent of RUS, the Authority and DEP and the Bank; provided however, that the Issuer may issue refunding bonds to pay the entire outstanding principal of and interest accrued on the Bonds in full. The Issuer shall give RUS, the Authority and DEP and the Bank prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 3.12. Certificate of Consulting Engineers. Prior to the issuance of the Bonds, the Issuer must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement to the effect that the Project will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, the Project is or will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition, construction and equipping of the Project.

Section 3.13. "Amended Schedule A" Filing. Within sixty (60) days following the construction Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the acquisition, construction and equipping phase of the Project and sources of funds thereof.

ARTICLE IV

INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain costs of the Project pending receipt of the gross proceeds of the Series 1999A Bonds, the Issuer may issue and sell its Note or Notes (the "Notes"), in an aggregate principal amount not to exceed \$450,000. The Notes may be issued as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental

hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such date or dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the supplemental resolution.

Section 4.02. Terms of and Security for Notes. The Notes, if issued, shall be issued with such terms and secured in the manner set forth in a supplemental resolution.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the proceeds of the Series 1999A Bonds, grant proceeds, surplus revenues, letter of credit proceeds, if any, and other sources. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the supplemental resolution.

Section 4.04. Execution of Documents. The Notes, Credit Agreement and any other documents required to be executed by the commercial bank or other lender shall be executed in the name of the Issuer by the Mayor, and the Mayor and Recorder are hereby authorized to execute any Note, Notes, Credit Agreement or any other documents necessary to secure the interim financing.

ARTICLE V

REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created and established with (or continued if previously established by the 1973 Ordinance), and shall be held by the Depository Bank, separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund (established by the 1973 Ordinance and continued hereby);
- (2) Project Construction Accounts, as hereinafter defined;
- (3) Operation and Maintenance Fund (established by the 1973 Ordinance and continued hereby);
- (4) Renewal and Replacement Fund (established by the 1973 Ordinance and continued hereby); and
- (5) Depreciation Account.

Section 5.02A. Establishment of Fund and Account with Depository Bank. The following special funds or accounts are hereby created and established with the Depository Bank:

- (1) Series 1999A Sinking Fund;
- (a) Within the Series 1999A Sinking Fund, a Series 1999A Reserve Account.

Section 5.02B. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created and established with the Commission:

- (1) Series 1999B and Series 1999C Bonds Sinking Funds;
- (a) Within the Series 1999B and Series 1999C Bonds Sinking Funds, Series 1999B and Series 1999C Reserve Accounts.

Section 5.03. Bond Proceeds; Project Construction Accounts. All moneys received from the sale of the Series 1999A and Series 1999B Bonds shall be deposited upon receipt by the Issuer in the Depository Bank, a member of Federal Deposit Insurance Corporation (FDIC), in special accounts hereby now established and designated as "Town of Middlebourne Sewer Construction Account for Series 1999A Bonds" and "Town of Middlebourne Sewer Construction Account for Series 1999B Bonds" (collectively, the "Project Construction Accounts"). The moneys in the Project Construction Accounts in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of state and municipal funds under West Virginia law. Moneys in the Project Construction Accounts shall be expended by the Issuer solely for the purposes provided herein.

If the Issuer shall determine at any time that all funds on deposit in the Project Construction Accounts exceed the estimated disbursements on account of the Project for the ensuing ninety (90) days, the Issuer may invest such excess funds in Qualified Investments.

Pending application as provided in this Section 5.03, money and funds in the Project Construction Accounts shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

Section 5.04. Deposit in the Refunding Fund. All of the Series 1999C Bonds Proceeds shall be deposited immediately in the Refunding Fund as hereinafter created for disbursement as provided herein. There is hereby created and ordered established with the Union Bank of Tyler County a trust fund to be designated "Town of Middlebourne Refunding Fund" (the "Refunding Fund"). Following the deposit into the Refunding Fund of the Series 1999C Bond Proceeds pursuant hereto, the Union Bank of Tyler County shall apply the moneys in the Refunding Fund to pay, together with other monies available therefor, the principal of and accrued interest on the 1973 Bond on the date to be refunded. Such funds shall be delivered to the Paying Agent to repay the 1973 Bond. All costs of issuance of the Series 1999C Bonds shall be paid from moneys in the Construction Fund upon receipt by the Union Bank of Tyler County of a requisition therefore signed by the Mayor of the Issuer.

Section 5.05. Covenants of the Issuer as to Revenues and Funds. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 Bonds Sinking Funds and the Reserve Accounts, the sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holders of the Bonds as follows:

(A) Revenue Fund. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which Fund, known as the "Revenue Fund" originally established under the 1973 Ordinance and which is hereby continued hereunder with the Depository Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided herein.

(B) Disposition of Revenues. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month deposit sufficient moneys from the Revenue Fund into the Operation and Maintenance Fund to pay all current Operating Expenses.

(2) (a) The Issuer shall next, each month, on or before the 27th day of each month, transfer from the Revenue Fund and remit to the National Finance Office designated in the Series 1999A Bond (or such other place as may be provided pursuant to the Series 1999A Bond), the amount required to pay the interest on the Series 1999A Bond, and to amortize the principal of the Series 1999A Bonds over the life of the Series 1999A Bond. All payments with respect to principal of and interest on the Series 1999A Bonds shall be made first to interest and then to principal on an equal pro rata basis in accordance with the respective aggregate principal amount thereof outstanding and on a parity with the Series 1999B and 1999C Bonds. There is hereby continued a sinking fund at the Depository Bank into which the Issuer shall deposit sufficient amounts from the Revenue Fund to pay the interest on the Series 1999A Bonds and to amortize the principal of the Series 1999A Bond over the remaining life of the Series 1999A Bond. As long as the Government owns the Series 1999A Bonds, such deposits can be replaced by the remittances described above.

(2) (b) The Issuer shall, beginning on the date set forth in Exhibit B to the Series 1999B Bonds in order to provide debt service on the Series 1999B Bonds, deposit in the Series 1999B Sinking Fund one-third (1/3) of the interest payment next coming due on the Series 1999B Bonds and one-third (1/3) of the principal payment next coming due on the Series 1999B Bonds beginning three (3) months prior to the first date of payment of principal of the Series 1999B Bonds. All payments with respect to principal of and interest on the Series 1999B Bonds shall be made first to

interest and then to principal on an equal pro rata basis in accordance with the respective aggregate interest and principal amounts thereof outstanding and on a parity with the Series 1999A and 1999C Bonds. The Issuer shall submit payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. The Issuer shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

(2) (c) The Issuer shall, beginning on the date set forth in Exhibit B to the Series 1999C Bonds in order to provide debt service on the Series 1999C Bonds, deposit in the Series 1999C Sinking Fund one-sixth ($1/6$) of the interest payment next coming due on the Series 1999C Bonds and one-sixth ($1/6$) of the principal payment next coming due on the Series 1999C Bonds beginning six (6) months prior to the first date of payment of principal of the Series 1999C Bonds. All payments made with respect to principal of and interest on the Series 1999C Bonds shall be made first to principal and then to interest on an equal pro rata basis in accordance with the respective aggregate principal amount thereof outstanding and on a parity with the Series 1999A and 1999B Bonds. The Issuer shall submit payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Bank at such address as is given to the Commission in writing by the Bank. The Issuer shall instruct the Commission to notify the Bank of any monthly payments which are not received by the 20th day of the month in which the payment was due.

(3) (a) The Issuer shall next, on each date that payment is made as set forth in (2) (a) above, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Series 1999A Bonds Reserve Account .4167% of the amount, as of the date of calculation, equal to the maximum aggregate amount of principal and interest which will become due on the Series 1999A Bonds in any year, until the amount in the Series 1999A Bonds Reserve Account equals such maximum amount (the "Series 1999A Bonds Reserve Requirement"). Such remittance shall be made on a pro rata basis with the Series 1999B and 1999C Bonds. After the Series 1999A Reserve Fund Requirement has been accumulated in the Series 1999A Bonds Reserve Account, the Issuer shall monthly deposit into the Series 1999A Bonds Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Series 1999A Bonds and for payment of Operating Expenses of the System, as shall be required to maintain the Series 1999A Bonds Reserve Requirement. Moneys in the Series 1999A Bonds Reserve Account shall be used solely to make up any deficiency in monthly payments of the principal of and interest on the Series 1999A Bonds as the same shall become due or for prepayment of installments on the Series 1999A Bonds, or for mandatory prepayment of the Series 1999A Bonds as hereinafter provided, and for no other purpose.

(3) (b) The Issuer shall next, on the first day of each month, commencing three (3) months prior to the first date of payment of principal of the Series 1999B Bonds, if

not fully funded upon issuance of the Series 1999B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit into the Series 1999B Bonds Reserve Account, an amount equal to 1/120 of the amount, as of the date of calculation, equal to the maximum aggregate amount of principal which will become due on the Series 1999B Bonds in any year, until the amount in the Series 1999B Bonds Reserve Account equals such maximum amount (the "Series 1999B Bonds Reserve Requirement"); provided, that no further payments shall be made into the Series 1999B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1999B Bonds Reserve Requirement. Such remittance shall be made on a pro rata basis with the Series 1999A and 1999C Bonds. Moneys in the Series 1999B Bonds Reserve Account shall be used solely to make up any deficiency in quarterly payments of the principal of, interest, if any, and administrative fees owed on the Series 1999B Bonds as the same shall become due or for prepayment of installments on the Series 1999B Bonds, or for mandatory prepayment of the Series 1999B Bonds as hereinafter provided, and for no other purpose.

(3) (c) The Issuer shall next, on the first day of each month, commencing three (3) months prior to the first date of payment of principal of the Series 1999C Bonds, if not fully funded upon issuance of the Series 1999C Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit into the Series 1999C Bonds Reserve Account, an amount equal to 1/120 of the amount, as of the date of calculation, equal to the maximum aggregate amount of principal and interest which will become due on the Series 1999C Bonds in any year, until the amount in the Series 1999C Bonds Reserve Account equals such maximum amount (the "Series 1999C Bonds Reserve Requirement"); provided, that no further payments shall be made into the Series 1999C Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1999C Bonds Reserve Requirement. Such remittance shall be made on a pro rata basis with the Series 1999A and 1999B Bonds. Moneys in the Series 1999C Bonds Reserve Account shall be used solely to make up any deficiency in semiannual payments of the principal of and interest on the Series 1999C Bonds as the same shall become due or for prepayment of installments on the Series 1999C Bonds, or for mandatory prepayment of the Series 1999C Bonds as hereinafter provided, and for no other purpose.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account, and .4167% of the amount of the Series 1999A Bonds Reserve Requirement. After the Series 1999A Bonds Reserve Requirement has been met, the Issuer shall transfer each month from the Revenue Fund to the Renewal and Replacement Fund .8333% of the amount of the Series 1999A Bonds Reserve Requirement. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article

VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the respective Series 1999 Bond Reserve Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated, on a pro rata basis, amount, as of the date of calculation, equal to the maximum aggregate amounts of principal and interest which will become due on the Series 1999 Bonds in any year until the amounts in the Series 1999 Bonds Reserve Accounts equal such maximum amounts, with moneys from the Renewal and Replacement Fund.

With respect to the payments made by the Issuer under Section 5.04 (1) through (4) above which relate to the Series 1999B Bonds, the Issuer shall complete the Monthly Payment Form described in the Loan Agreement and submit a copy of said form and the check or checks representing such payments to the Authority by the 5th day of such calendar month.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, moneys remaining therein and not permitted to be retained therein, if any ("Surplus Revenues"), may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

Moneys in the respective Series 1999 Bonds Sinking Funds shall be used only for the purposes of paying principal of and interest, if any, as the same shall become due. Moneys in the respective Series 1999 Reserve Accounts shall be used only for the purpose of paying principal of and interest on the Bonds, as the same shall come due, when other moneys in the attendant Series 1999 Bonds Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1999 Bonds Sinking Funds and Series 1999 Reserve Accounts shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during acquisition, construction and equipping of the Project, be deposited in the Construction Trust Fund, and following completion of acquisition, construction and equipping of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payments, if any, due on the Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the respective Series 1999 Reserve Accounts which result in a reduction in the balance of the Series 1999 Reserve Accounts to below the Series 1999 Reserve Requirements shall be subsequently restored from the first Net Revenues available after all required payments have been made in full, to the respective Series 1999 Bonds Sinking Funds for payment of debt service on the Bonds.

As and when additional bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay the interest on such additional parity bonds and accomplish retirement thereof at maturity and to accumulate a balance in

the appropriate reserve account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the bonds of such series, including such additional bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1999 Bonds Sinking Funds or into the Series 1999 Reserve Accounts therein when the aggregate amount of funds in said Series 1999 Bonds Sinking Funds and Series 1999 Reserve Accounts are at least equal to the aggregate principal amount of the Bonds issued pursuant to this Ordinance then Outstanding and all interest to accrue until the maturity thereof.

The payments into the Series 1999 Bonds Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically deducted from the Revenue Fund and transferred to the Commission on the dates required.

Moneys in the Series 1999 Reserve Accounts shall be invested and reinvested by the Depository Bank or the Commission in accordance with Section 8.01 hereof.

The respective Series 1999 Bonds Sinking Funds, including the respective Series 1999 Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds and any additional bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 1999B and Series 1999C Bonds Sinking Funds and the corresponding Reserve Accounts, and the Depository Bank is hereby designated as the Fiscal Agent for the administration of the other accounts, herein provided, and all amounts required for the Reserve Accounts and the other accounts will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bonds and the interest thereon, but the Commission and the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Accounts and the Depreciation Fund, respectively, invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Ordinance shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Investment Management Board. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account.

(C) Change of Depository Agent and Fiscal Agent. The Issuer may designate another bank or trust company insured by FDIC as Fiscal Agent and Depository Bank if the aforesaid Bank should cease for any reason to serve or if the Governing Body determines by ordinance that said Bank or its successor should no longer serve as Fiscal Agent or Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

(D) User Contracts. The Issuer shall, prior to delivery of the Bonds, provide evidence that there will be 446 bona fide users of the proposed System when the extension of the System is completed and placed in operation and must obtain user agreements and the user contribution from each new user and deposit in the Project Construction Accounts all such new user contributions collected.

(E) Charges and Fees. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent and the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission, the Registrar, the Paying Agent and the Depository Bank then due. The Issuer shall also remit from the Revenue Fund to the Commission on the 1st day of each month the SRF Administrative Fee.

(F) Investment of Excess Balances. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, in a lawful manner for securing deposits of state and municipal funds under the laws of the State.

(G) Remittances. All remittances made by the Issuer to the Commission and to the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited. If requested in writing by RUS and the Authority and DEP, all remittances may be made by electronic transfer or automatic debit.

(H) Gross Revenues. The Gross Revenues of the System shall only be used for purposes of the System.

Section 5.06. Excess Bond Proceeds. The Issuer shall place any excess proceeds from the Bonds not required by the Project in the respective Series 1999 Bonds Reserve Accounts, or as instructed by the Authority, DEP and RUS.

ARTICLE VI

BOND PROCEEDS; DISBURSEMENTS

Section 6.01. Application of Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. The amount of the proceeds which together with the earnings thereon shall be at least sufficient to pay capitalized interest on the Series 1999A Bonds shall be deposited in the Series 1999A Bonds Sinking Funds; provided, that such period may not exceed beyond the date which is six (6) months after the estimated date of completion of construction of the Project.

B. From the proceeds of the Bonds, there shall be deposited with the Commission in the Series 1999 Reserve Accounts the sums, if any, required hereunder for funding the Series 1999 Reserve Accounts.

C. The remaining moneys derived from the sale of the Bonds shall be deposited by the Issuer as received from time to time in the respective Project Construction Accounts established hereunder.

D. The Depository Bank shall comply with all requirements with respect to the disposition of the Project Construction Accounts set forth in this Ordinance. Moneys in the Project Construction Accounts shall be used solely to pay Costs of the Project and, until so transferred or expended, are hereby pledged as additional security for the Bonds.

Section 6.02. Series 1999A Bond Proceeds; Project Construction Account. All moneys received from the sale of the Series 1999A Bonds shall be deposited upon receipt by the Issuer in the Depository Bank, a member of Federal Deposit Insurance Corporation (FDIC), in the Town of Middlebourne Sewer Construction Account for Series 1999A Bonds. The moneys in the Series 1999A Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of state and municipal funds under West Virginia law. Moneys in the Series 1999A Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Until completion of the construction of the Project, the Issuer will transfer from the Series 1999A Project Construction Account and pay to RUS on or before the due date, such sums as shall be from time to time required to make the monthly installment payments on the Series 1999A Bonds if there are not sufficient Net Revenues to make such monthly payment.

If the Issuer shall determine at any time that all funds on deposit in the Series 1999A Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing ninety (90) days, the Issuer may invest such excess funds in Qualified Investments.

Pending application as provided in this Section 6.02, money and funds in the Series 1999A Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Series 1999A Project Construction Account shall be disposed of in accordance with the regulations of RUS.

Section 6.03. Disbursements from the Series 1999B Project Construction Account. Payments for Costs of the Project shall be made monthly.

On or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1999B Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 1999B Project Construction Account shall be made only after submission to and approval from the Authority and DEP of the following:

(1) a completed and signed "Payment Requisition Form," the form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Series 1999B Project Construction Account only the net amount remaining after deduction of any such portion. All payments made from the Series 1999B Project Construction Account shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Series 1999B Project Construction Account. The Consulting Engineers shall

from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application and until disbursed, moneys in the Series 1999B Project Construction Account, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, any balance remaining in the Series 1999B Project Construction Account shall be placed in the Series 1999B Bonds Reserve Account or otherwise applied as directed by the Authority and DEP.

ARTICLE VII

GENERAL COVENANTS

Section 7.01. General Statement. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Accounts sums sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Ordinance. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Bonds issued hereunder shall be secured forthwith by a lien on the Net Revenues derived from the operation of the System collected by the Issuer and authorized by a Recommended Decision of the Public Service Commission of West Virginia in Case No. 98-0466-S-CN, dated September 29, 1998, which became a Final Order on October 19, 1998, as amended by a Commission Order dated August __, 1999. The Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Series 1999 Bonds Sinking Funds, including the Series 1999 Reserve Accounts therein, and all other payments provided for in the Ordinance are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Ordinance.

Section 7.04. Rates. Prior to issuance of the bonds, equitable rates or charges for the proposed and/or actual use of and service rendered by the System have been or will be established, all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever

necessary so that the aggregate of the rates and charges will be sufficient for such purposes. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bonds to finance the issuance of the Bonds as the purchaser thereof shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds; provided that, in the event that amounts at least equal to or in excess of the Reserve Requirements are on deposit in the Series 1999 Bonds Reserve Accounts and the Reserve Accounts for the Bonds are funded at least at the requirement provided for in the Ordinance, such balances each Fiscal Year need only equal at least one hundred ten percent (110%) of the maximum amounts required in any succeeding Fiscal year for payment of principal of and interest on the Bonds.

Section 7.05 Completion, Operation and Maintenance; Schedule of Costs. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and of renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in the Ordinance.

Section 7.06. Sale of the System. Except as otherwise required by State law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Outstanding Bonds and effectively defease this Ordinance in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Outstanding Bonds, immediately be remitted to the Commission for deposit in the Series 1999 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Outstanding Bonds. Any balance remaining after the payment of all the Outstanding Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by ordinance, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Depreciation Fund. If the amount to be received from such

sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by ordinance duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of RUS, the Authority and DEP, be remitted by the Issuer to the Commission for deposit in the Series 1999 Bonds Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds, on a prorata basis. Such payment of such proceeds into the Series 1999 Bonds Sinking Funds or the Depreciation Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then outstanding without the prior approval and consent in writing of DEP and the Holders, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) in amount of the Bonds then outstanding. The Issuer shall prepare the form of such approval and consent for execution by DEP and the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Additional Parity Bonds or Obligations. Except as provided in this Section 7.07 and in Section 7.08B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Series 1999 Reserve Accounts and the Depreciation Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance, or upon the System or any part thereof. The Issuer will give prior written notice to the Authority and DEP before the issuance of any other obligations to be used for the Project which are payable from System revenues or grants for the Project.

Section 7.08. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Bonds issued pursuant to this Ordinance, except under the conditions and in the manner herein provided. No Parity Bonds shall be issued without the prior

written consent of RUS, the Authority and DEP.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of the System or extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any twelve (12) consecutive months, within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created or continued in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

All Parity Bonds shall mature on the day of the years of maturities, and the interest thereon shall be payable on the days of each year, specified herein or in a separate ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance with respect to the Bonds then outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance.

B. Notwithstanding the foregoing, the Issuer may issue Parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any issues or series of the Bonds, provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

With the written consent in advance of RUS, the Authority and DEP and anything to the contrary in this Section 7.08 notwithstanding, Parity Bonds may be authorized and issued by the Issuer pursuant to another ordinance solely to complete the Project as described in the Issuer's application to the Authority and DEP in accordance with the plans and specifications, in the event that the Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of acquisition, construction and equipping of the Project; provided, however, that, prior to the issuance of such Parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the Recorder a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the acquisition, construction and equipping costs to complete the Project,

and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority and DEP.

Section 7.09. Books, Records and Facilities. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and DEP and any Holder of a Bond or Bonds issued pursuant to this Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The Issuer shall keep complete and accurate records of the costs of acquisition, construction and equipping the System, acquiring the Project site and acquiring, constructing and installing the Project. The Issuer shall permit the Authority, or its agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loans or any grants or other sources of financing for the Project.

The Issuer shall permit RUS, the Authority and DEP, or their agents and representatives, to inspect all records pertaining to the acquisition, construction and equipping and operation of the System at all reasonable times following completion of acquisition, construction and equipping of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, DEP and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Outstanding Bonds or other obligations outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants, in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, if legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to DEP and the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Ordinance and the Act and that Gross Revenues are adequate to meet operation/maintenance expenses and debt service requirements.

The Issuer shall also, during acquisition, construction and equipping of the Project and for two (2) years following the completion of the Project, complete a Monthly Financial Report, the form of which is attached to the Loan Agreement as Exhibit B and made a part hereof, and forward a copy by the 15th of each month to the Authority and DEP.

The Issuer shall provide DEP with all appropriate documentation to comply with any special conditions established by federal and/or State regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority, or its agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of acquisition, construction and equipping of the Project, the Issuer shall also provide the Authority, or its agents and representatives, with access to the plans, drawings, specifications, System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

Section 7.10. Compliance With Loan Agreement, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and to comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the acquisition, construction and equipping and construction of the Project and operation, maintenance and use of the System.

Section 7.11. Insurance and Bond. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Real Property Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the full insurable value thereof. In

the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workers' Compensation Coverage for all Employees of the Town Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of one hundred percent (100%) of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of Tyler County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation insurance will be maintained as required by the laws of the State of West Virginia.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and every officer and employee of the Town having custody of the Revenue Fund or of any revenues or other funds of the System in an amount at least equal to the total annual debt service requirements for all outstanding loans.

(f) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 7.12. Statutory Mortgage. For the further protection of the holders of the Series 1999A, 1999B and 1999C Bonds, a statutory mortgage lien upon the System is granted and

created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Series 1999A, 1999B and 1999C Bonds on a pro rata basis.

Section 7.13. Fiscal Year; Budget. While the Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty (30) days prior to the beginning of each fiscal year, the Issuer agrees to adopt an Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each fiscal year.

If for any reason the Issuer shall not have adopted an Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of an Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten percent (10%); and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 7.14. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 7.15. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recorder on the date of adoption hereof, subject to permitted changes.

Upon completion of the Project, the Issuer shall file with the Authority a schedule in substantially the form of Amended Schedule A to the DEP Revolving Fund Program application, setting forth actual costs of the Project and sources of funds therefor.

Section 7.16. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall also, at least one a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to the Holder or Holders and shall submit said report to the Holder or Holders and the Authority. Such audit report submitted to the Holder or Holders and the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Ordinance and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Section 7.17. Engineering Services and Operating Personnel. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the acquisition, construction and equipping of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and drawings prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans and specifications and acquisition, construction and equipping, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit the Recipient As-Built Plans, as defined in the SRF Regulations, to it within sixty (60) days of the completion of the Project. The Issuer shall notify DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," the form of which is attached to the Loan Agreement as Exhibit A, to DEP within sixty (60) days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is ninety percent (90%) completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is twenty-five percent (25%) complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify DEP in writing of the certified operator employed at the twenty-five percent (25%) completion stage.

Section 7.18. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

Section 7.19. Tax Covenants as to Tax Exempt Status of Bonds.

1. The Issuer covenants that (a) it shall not permit or cause to be done any act or thing which would result in the loss of exemption from tax of interest on the Bonds under Section 103(a) of the Internal Revenue Code and the regulations thereunder, or under any successor or similar provision of the Internal Revenue Code hereinafter enacted and applicable to the Bonds and regulations thereunder; (b) it shall not invest or otherwise use or permit or cause to be invested or used, any of the proceeds of the Bonds, or moneys deemed to be proceeds of the Bonds under the Internal Revenue Code, directly or indirectly, in any manner which would result in such Bonds being classified as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Service Code or regulations thereunder, and each shall comply with the requirements of such Section and (c) no part of the proceeds of the Bonds or any funds held under the Ordinance shall at any time be used directly or indirectly for any purpose for which would cause the Bonds to be subject to treatment as a "private activity bond" under the Internal Revenue Code or regulations thereunder and to that end the Issuer will comply with the applicable law as long as the Bonds are outstanding.

2. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of ten percent (10%) of the Net Proceeds of the Bonds are used for private business use if, in addition, the payment of more than ten percent (10%) of the principal or ten percent (10%) of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a private business use or in payments in respect of property used or to be used for a private business use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a private business use, and that (ii) in the event that both (A) in excess of five percent (5%) of the Net Proceeds of the Bonds are used for a private business use, and (B) an amount in excess of five percent (5%) of the principal or five percent (5%) of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said private business use or in payments in respect of property used or to be used for the Issuer, in respect of property or borrowed money used or to be used for said private business use, then said excess over said five percent (5%) of Net Proceeds of the Bonds used for a private business use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such private business use is related.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of five percent (5%) of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Holders) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Holders) which would adversely affect such exclusion.

Section 7.20. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid, to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia. Rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.21. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.22. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a thirty (30) day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction, provided that Issuer gives no assurance of compliance with these requirements for parties outside the limits of the Issuer.

Section 7.23. Completion and Operation of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all applicable laws, rules and regulations issued by DEP, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

The Issuer will obtain all permits required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the West Virginia Public Service Commission necessary for the acquisition and construction of the Project and the operation of the System with the appeal periods having expired without successful appeal.

Section 7.24. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.25. Public Service Commission Approval. The Issuer shall obtain all requisite orders of and approvals from the Public Service Commission of West Virginia necessary for the acquisition, construction and equipping and financing of the Project and operation of the System, and the Authority and DEP shall receive an opinion of counsel to the Issuer to such effect.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01 and in Section 8.02 and 8.03.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own trust department and shall not be responsible for any losses from such investments, other than for their own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are outstanding.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal Information Return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to tax matters as a condition to issuance of the Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as

may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall submit to the Authority within fifteen (15) days following the end of each Bond Year a certified copy of its qualification for the small governmental issue exception to rebate, or any other exception thereto, and the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Bonds subject to rebate. The Issuer shall furnish to the Authority such information with respect to earnings on all moneys constituting "Gross Proceeds" of the Bonds (as such term is defined in the Code) from time to time as the Authority may request.

Section 8.04. Restriction of Yield and Bond Proceeds. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in Section 148 of the Code.

ARTICLE IV

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(1) If default occurs in the due and punctual payment of interest on or principal of any of the Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, or the Loan Agreement, any Supplemental Resolution or in the Bonds, and such default shall have continued for a period of thirty (30) days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or the Holder or Holders; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of Outstanding Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his, her or its rights and, in particular, (i) bring suit for any past due and unpaid principal or interest, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and this Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Outstanding Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Outstanding Bonds, and (v) by action or bill in equity

enjoin any acts in violation of this Ordinance with respect to the Outstanding Bonds, or the rights of such Registered Owners on a parity basis.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Ordinance and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bond any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his, her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bond. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owner of the Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or

decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then with respect to the Bonds only the pledge of Net Revenues and other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All the Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Bonds provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

RATES, RULES, COVENANTS, ETC.

Section 11.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System

shall be as set forth in a Tariff on file with the Public Service Commission effective August 15, 1998, which Tariff is incorporated herein by reference and is made a part hereof.

B. The Issuer hereby ratifies a Rate Ordinance enacted on June 22, 1998, which sets forth the rates and charges as set out in the above-referenced order and included on the tariff sheet filed with the Public Service Commission.

Section 11.02. Further Covenants

The Issuer hereby further covenants and agrees as follows:

A. There shall not be any discrimination or differential in rates between customers in similar circumstances.

B. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

C. The Issuer, to the extent permitted by law, will not accept payment of any sewer bill from a customer served with water and sewer services by the Issuer without payment at the same time of a water bill owed by such customer for the same premises.

D. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have such remedies and powers as are provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

E. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bonds, the Issuer shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the offices of the Secretary of State of West Virginia and of the Clerk of the County

Commission of Tyler County.

Section 12.02. Delivery of Bonds. The Mayor and Recorder of the Governing Body are hereby authorized and directed to cause the Series 1999 Bonds, numbered AR-1, BR-1 and CR-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 12.03. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 12.04. Amendment or Modification of Ordinance. No material modification or amendment of this Ordinance, or of any ordinance or resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66 2/3% or more in principal amount of the Bonds so affected and then Outstanding and DEP and the Authority; provided, that no change shall be made in the maturity of any Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owners thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Ordinance may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code as may be necessary to assure the excludability of interest on the Bonds from gross income of the holders thereof.

Section 12.05. Ordinance Constitutes Contract. The provisions of this Ordinance shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of this Ordinance shall be made in any manner, except as in this Ordinance provided.

Section 12.06. Conflicting Provisions Repealed. All ordinances and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed, including the 1973 Bond Ordinance which is repealed upon issuance of the Series 1999C Bonds.

Section 12.07. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 12.08. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed

and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 12.09. Supplemental Resolutions. The Issuer may pass such supplemental resolutions, if necessary, to effectuate the purposes and intent of this Ordinance.

Section 12.10. Effective Time. This Ordinance shall take effect immediately upon its adoption and after the public hearing.

Section 12.11 Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) full days intervening between each publication, in a qualified newspaper published and of general circulation in the Town of Middlebourne, together with a notice stating that this Bond Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Town Council upon a date certain, not less than ten (10) days subsequent to the date of the first publication of such abstract of this Bond Ordinance and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard, and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - August 5, 1999.

Passed on Second Reading - August 12, 1999.

Effective following
Public Hearing - August 26, 1999.

TOWN OF MIDDLEBOURNE

By: Gayla Fisher
Mayor

[SEAL]


Attest:

By: Jamie Binman
Acting Recorder

CERTIFICATION

I, Janice Bonner, Acting Recorder of the Town of Middlebourne, hereby certify that the foregoing is a true and correct copy of an Ordinance approved at meetings of the Town Council of the Town of Middlebourne held on August 5 and August 12, 1999 and following a public hearing held on August 26, 1999. I further hereby certify that the action of said Town Council set forth therein remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 27th day of August 1999.



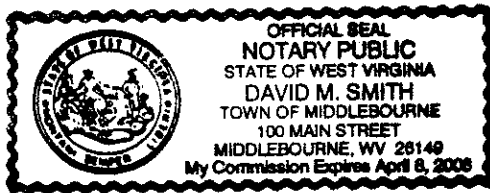
Acting Recorder

STATE OF WEST VIRGINIA,

COUNTY OF TYLER, to-wit:

The foregoing instrument was acknowledged before me this 27 day of August, 1999, by Gayla S. Fisher, the Mayor of the Town of Middlebourne, a municipal corporation and a political subdivision of the State of West Virginia, on behalf of said municipality.

My commission expires Apr 7, 2008.




NOTARY PUBLIC

SPECIAL MEETING OF THE TOWN COUNCIL

DATE 8-05-1999 TIME 1:00PM

MEMBERS OF THE GOVERNING BODY PRESENT: Mayor Gayla S. Fisher, Recorder Beth A. Frum, Council members Janice Bonner and Phil Yoho.

MEMBERS OF THE GOVERNING BODY ABSENT: Council members Jeff McKinney, Vera Henthorn, and Pam Farhatt.

MEMBERS OF THE PUBLIC PRESENT: Dave Smith.

Meeting called to order by Mayor Gayla S. Fisher.

Janice Bonner made motion to have the first reading by title only of an ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A, SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B, AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, OF THE TOWN OF MIDDLEBOURNE, IN THE AMOUNTS OF \$800,000, \$375,000 AND \$120,000, RESPECTIVELY, TO FINANCE A PORTION OF THE COSTS OF THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC SEWER SYSTEM AND REFUND CERTAIN EXISTING INDEBTEDNESS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; APPROVING AND RATIFYING A LETTER OF CONDITIONS RELATING TO THE SERIES 1999A BONDS AND A LOAN AGREEMENT RELATING TO THE SERIES 1999B BONDS; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BONDS; PROVIDING STATUTORY LIEN ON SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC SEWER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT. Phil Yoho seconded the motion. Motion carried.

Janice Bonner made a motion to adjourn the meeting, Mayor Gayla S. Fisher seconded the motion, Motion carried, Meeting adjourned.

ATTEST Beth A. Frum DATE 8-05-99

MAYOR Gayla Fisher DATE 8-5-99

SPECIAL MEETING OF THE TOWN COUNCIL

DATE 8-12-99 TIME 1:00 PM

MEMBERS OF THE GOVERNING BODY PRESENT: Mayor Gayla S. Fisher, Recorder Beth A. Frum, Council members Janice Bonner, Phil Yoho, and Pam Farhatt.

MEMBERS OF THE GOVERNING BODY ABSENT: Council members Jeff McKinney and Vera Henthorn.

MEMBERS OF THE PUBLIC PRESENT: Dave Smith, Linda Suter, and Gary Rymer.

Meeting called to order by Mayor Gayla S. Fisher.

Gary Rymer spoke to council regarding explanation of the proposed amendments to the Bond Ordinance.

Mayor Gayla S. Fisher gave the second and final reading by title only of an ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A, SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B, AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, OF THE TOWN OF MIDDLEBOURNE, IN THE AMOUNTS OF \$800,000, \$375,000 AND \$120,000, RESPECTIVELY, TO FINANCE A PORTION OF THE COSTS OF THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC SEWER SYSTEM AND REFUND CERTAIN EXISTING INDEBTEDNESS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; APPROVING AND RATIFYING A LETTER OF CONDITIONS RELATING TO THE SERIES 1999A BONDS AND A LOAN AGREEMENT RELATING TO THE SERIES 1999B BONDS; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BONDS; PROVIDING STATUTORY LIEN ON SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC SEWER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

Phil Yoho made a motion to accept the amendments to the Bond Ordinance. Janice Bonner seconded the motion. Motion carried.

Phil Yoho made a motion to approve the second and final reading of the Ordinance as amended. Pam Farhatt seconded the motion. Motion carried.

Phil Yoho made a motion to adopt the Ordinance with amendments. Pam Farhatt seconded the motion. Motion carried.

Phil Yoho made a motion to appoint Janice Bonner as temporary acting recorder from August 20, 1999, through August 29, 1999. Pam Farhatt seconded the motion. Motion carried.

Janice Bonner made a motion to adjourn the meeting. Phil Yoho seconded the motion. Motion carried. Meeting adjourned.

ATTEST Beth A. Farnum DATE 8-12-99

MAYOR Jayla Fisher DATE 8-19-99

**MEETING OF THE TOWN COUNCIL
And Public Meeting on the Bond Ordinance**

DATE 8-26-99 TIME 7:00PM

MEMBERS OF THE GOVERNING BODY PRESENT: Mayor Gayla S. Fisher, Acting Recorder Janice Bonner, Treasurer Dave Smith, Council members Vera Henthorn, Pam Farhatt.

MEMBERS OF THE GOVERNING BODY ABSENT: Jeff McKinney and Phil Yoho.

MEMBERS OF THE PUBLIC PRESENT: Gary Rymer and George Blum.

Meeting called to order by Mayor Gayla Fisher.

First order of business was to receive public comments on an ordinance authorizing the acquisition and construction of Municipal properties and issuance of sewer revenue bonds (Rural Utilities Service). Series 1999A, sewer revenue bonds (State Revolving fund), series 1999B and sewer revenue refunding bonds (Union Bank of Tyler County), series 1999C, of the Town of Middlebourne, in the amounts of \$800,000, \$375,000 and \$120,000, respectively, to finance a portion of the costs of the acquisition and construction of improvements to a public sewer system and refund certain existing indebtedness; defining and prescribing the terms and provisions of the bonds; approving and ratifying a letter of conditions relating to the series 1999A bonds and a loan agreement relating to the series 1999B bonds; providing for interim construction financing; providing generally for the rights and remedies and security of the holder of the bonds; providing statutory lien on system; providing for the enactment, ratification, approval and collection of rates and charges for the public sewer system; and providing general terms and providing when this ordinance shall take effect.

Mayor Fisher asked if any one in attendance wanted to comment on the above mentioned ordinance. With no one in attendance wishing to comment on the above mentioned ordinance, Janice Bonner made a motion to ratify the above mentioned ordinance with the minor changes and have the final reading and passage of the above mentioned ordinance. Pam Farhatt seconded the motion, motion carried.

Janice Bonner made a motion to approve Bob Lowther and Jay Crowe as resident inspectors to observe the construction of the above mentioned project as recommended by Cerrone & Associates Inc. Vera Henthorn seconded the motion, motion carried.

Janice Bonner made a motion to approve such supplemental resolutions and forms subscribed by bond council to proceed with the issues of the series 1999A, 1999B and

1999C sewer revenue bonds on Aug 27th 1999. Vera Henthorn seconded the motion, motion carried.

Janice Bonner made a motion to authorize the Town Treasurer to pay all authorized invoices and payment requests from the above mentioned bonds and interim financing and Small Cities Block Grant after approval from all agencies has been secured. Pam Farhatt seconded the motion, motion carried.

Janice Bonner made a motion to set the closing for the above mentioned bonds on Aug 27th, 1999 and to authorize the appropriate Town officials to sign all necessary documents in relation to this project. Vera Henthorn seconded the motion, motion carried.

Vera Henthorn made a motion to give the contractors on the above mentioned project a notice to proceed following the closing of the Bonds. Pam Farhatt seconded the motion, motion carried.

Pam Farhatt made a motion to adjourn, Vera Henthorn seconded the motion, motion carried, meeting adjourned.

ATTEST Janice Bonner DATE 8-26-99
Acting Recorder

MAYOR Jayla Fisher DATE 8/26/99

**STATE OF ORDINANCE
OFFICE OF PUBLIC HEARING**

resuant to the provisions of West
ginia Code Chapter 6, Article 9A,
tion 6 and in accordance with the pro-
ons of West Virginia Code Chapter 16,
icle 13, as amended, you hereby noti-
l that a public hearing before the Town
uncil (the "Council") of the Town of
idlebourne (the "Town") will be held on
26th day of August, 1999, at which
blic hearing the Council will consider for
l adoption an Ordinance entitled:

**ORDINANCE AUTHORIZING THE ACQUI-
TION AND CONSTRUCTION OF MUNICI-
L PROPERTIES AND ISSUANCE OF
WER REVENUE BONDS (RURAL UTILI-
ES SERVICE), SERIES 1999B, AND
WER REVENUE REFUNDING BONDS
NION BANK OF TYLER COUNTY),
RIES 1999C, OF THE TOWN OF MID-
EBOURNE, IN THE AMOUNTS OF
00,000, \$375,000 AND \$120,000,
SPECTIVELY, TO FINANCE A PORTION
THE COSTS OF THE ACQUISITION
ID CONSTRUCTION OF IMPROVE-
ENTS TO A PUBLIC SEWER SYSTEM;
EFINING AND PRESCRIBING THE
ERMS AND PROVISIONS OF THE
ONDS; APPROVING AND RATIFYING A
AN AGREEMENT RELATING TO SUCH
ONDS; APPROVING AND RATIFYING A
AN AGREEMENT RELATING TO SUCH
ONDS; PROVIDING FOR INTERN CON-
STRUCTION FINANCING; PLACING LIMIT
V SALE OF SYSTEM; PROVIDING GEN-
RALLY FOR THE RIGHTS AND REME-
ES AND SECURITY OF THE HOLDER
P THE BONDS; PROVIDING STATUTORY
EN ON SYSTEM; PROVIDING FOR THE
DOPTION, RATIFICATION, APPROVAL
ND COLLECTION OF RATES AND
HARGES FOR THE PUBLIC SEWER SYS-
EM; AND PROVIDING GENERAL TERMS
ND PROVIDING WHEN THIS ORDI-
NANCE SHALL TAKE EFFECT.**

The Ordinance has been read and
approved by the Council on first reading
n August 5 1999, and on second reading
ugust 12 1999. The Ordinance would
authorize the issuance of the Town's
300,000 Sewer Revenue Bonds (Rural
ilities Service), Series 1999A \$375.00
ewer Revenue Bonds (State Revolving
und), Series 1999B and \$120,000 Sewer
evenue Refunding Bonds (Union Bank of
tyler County), Series 1999C (collectively,
he "Bonds"). The BONds would provide
unds to make certain improvements and
dd certain extensions to the Town's exist-
ng sewage system (the "system") and
efund certain existing indebtedness.
The entire amount of the principal of and
nters on the Bonds would be paid from
evenues generated from the operation of
he System. The Ordinance shall further
provide as follows:

1. The issuance of the Bonds would be payable from the revenues of the System.
2. The Town has the authority under Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended, to finance the operations of the System.
3. The Town has determined that the revenues identified above are sufficient to pay the principal of and interest on the Bonds as the same become due including all sinking and reserve funds and other payments provided for in the Ordinance.
4. The Ordinance provides that it is in the best interests of the Commission to sell the Bonds to the United States Department of Agriculture, Rural Utilities Service, the West Virginia Water Development Authority, for the benefit of the West Virginia Division of Environmental Protection, and the Union bank of Tyler County (collectively, the "Purchaser").

TYLER STAR NEWS

Sistersville, WV August 18 1999

State of West Virginia, County of Tyler:

Personally appeared before the undersigned, a Notary Public,

Michael A. Galluzzo who, being duly sworn,

states that he is a manager of the Tyler Star News, a weekly

newspaper of general circulation, published at Sistersville,

County of Tyler, State of West Virginia, and that a copy of the

notice attached hereto was published for.....2.....successive

weeks in the Tyler Star News, beginning on the 11.....day

ofAugust....., 1999, and ending on the.....18.....day

of.....August....., 1999.

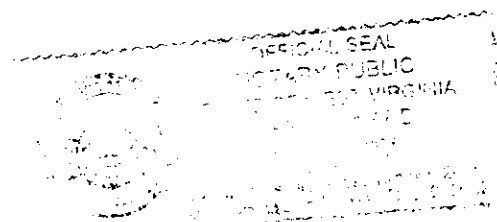
Michael A. Galluzzo
Manager, Tyler Star News

Subscribed and sworn to before me, a Notary Public of said
County, on this18..... day ofAugust....., 1999.

[Signature] Notary Public

My commission expires on the 9th day of December, 2002.

Printers Fee.....



ABSTRACT OF ORDINANCE AND
NOTICE OF PUBLIC HEARING

Pursuant to the provisions of West Virginia Code Chapter 8, Article 9A, Section 5 and in accordance with the provisions of West Virginia Code Chapter 16, Article 13, as amended, you hereby notified that a public hearing before the Town Council (the "Council") of the Town of Middlebourne (the "Town") will be held on the 28th day of August, 1999, at which public hearing the Council will consider for final adoption an ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF SEWER REVENUE BONDS (RURAL UTILITIES SERVICE) SERIES 1999A, SEWER REVENUE BONDS (STATE REVOLVING FUND) SERIES 1999B, AND SEWER REVENUE BONDS (STATE REVOLVING FUND) SERIES 1999C, AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY) SERIES 1999C, OF THE TOWN OF MIDDLEBOURNE, IN THE AMOUNTS OF \$800,000, \$375,000 AND \$120,000, RESPECTIVELY TO FINANCE A PORTION OF THE COSTS OF THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENT TO A PUBLIC SEWER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; APPROVING AND RATIFYING LOAN AGREEMENT RELATING TO SUCH BONDS; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BONDS; PROVIDING STATUTORY LIEN ON SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC SEWER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

The Ordinance has been read and approved by the Council on first reading on August 5, 1999, and on second reading August 12, 1999. The Ordinance would authorize the issuance of the town's \$800,000 Sewer Revenue Bonds (Rural Utilities Service) Series 1999A, \$375,000 Sewer Revenue Bonds (State Revolving Fund) Series 1999B and \$120,000 Sewer Revenue Refunding Bonds (Union Bank of Tyler County) Series 1999C (collectively, the "Bonds"). The Bonds would provide funds to make certain improvements and add certain extensions to the Town's existing sewage system (the "System") and refund certain existing indebtedness.

The entire amount of the principal of and interest on the Bonds would be paid from revenues generated from the operation of the System. The Ordinance shall further provide as follows:

1. The issuance of the Bonds would be payable from the revenues of the system.
2. The Town has the authority under Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended, to finance the operations of the System.
3. The Town has determined that the revenues identified above are sufficient to pay the principal of and interest on the Bonds as the same become due including all sinking and reserve funds and other payments provided for in the Ordinance.
4. The Ordinance provides that it is in the best interest of the Commission to sell the Bonds to the United States Department of Agriculture, Rural Utilities Service, the West Virginia Water Development Authority, for the benefit of the West Virginia Division of Environmental Protection, and the Union Bank of Tyler County (collectively, the "Purchaser").
5. The Ordinance provides that the Bonds shall be executed in the name of the Town by the Mayor, and the seal of the town shall be affixed thereto or imprinted thereon and attested by the Recorder. The West Virginia Municipal Bond Commission shall serve as the Registrar and Paying Agent.

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I, CHARLES W. MELO

for the publisher of the

WHEELING NEWS-REGISTER
WHEELING INTELLIGENCER

newspapers published in the CITY OF

WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

AUGUST 14 21, 1999

commencing on the 14th day of AUGUST, 1999

Given under my hand this 26th day of AUGUST, 1999

JEAN DIANE BARNES

Sworn to and subscribed before me this 26th day of

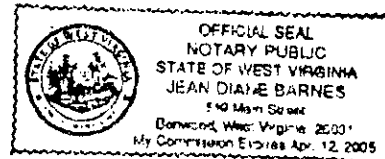
August, 1999 at WHEELING, OHIO COUNTY, WEST VIRGINIA

JEAN DIANE BARNES

Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires April 12, 2005



6. The Ordinance provides for the Registrar to register the Bonds.

7. The Ordinance provides for the repayment of the debt of the System as well as the manner and method of disbursing the proceeds of the Bonds.

8. The Ordinance provides for the investment of the Bond proceeds and includes covenants designed to maintain tax-exempt status.

9. The Ordinance establishes terms for default and remedies of the Purchaser.

A certified copy of the Ordinance is available for examination by any interested person at the office of the Town during regular office hours of such office, which are 8:00 a.m. to 5:00 p.m., Monday through Friday.

The public hearing will be held at Town Hall, 100 Main Street, Middlebourne, West Virginia on the 28th day August, 1999 at 7:00 p.m. and any person or persons interested may appear before Council and be heard and may present protests and objections to the passage of the Ordinance and the issuance of the Bonds.

Dated this 12th day of August, 1999.

TOWN OF MIDDLEBOURNE
TYLER COUNTY, WEST VIRGINIA
Gayle S. Fisher, Mayor
Beth Frum, Recorder

Intelligencer August 14, 1999
Intelligencer August 21, 1999

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 3rd day of August, 1999.

CASE NO. 98-0466-S-CN

TOWN OF MIDDLEBOURNE,
a municipality.

Petition to reopen certificate proceeding for
approval of revised funding.

COMMISSION ORDER

By Recommended Decision issued September 29, 1998, which became a Final Order of the Commission on October 19, 1998, the Town of Middlebourne was granted a certificate of convenience and necessity to construct a sewerage treatment plant, line additions, and improvements in Tyler County. The Order approved total funding for the project in the amount of \$2,149,900.

On July 14, 1999, the Town filed a petition to reopen this proceeding for approval of additional funding due to the fact that the bids submitted were in excess of projected costs for the project. Additional funding in the amount of \$744,400 is necessary to cover the currently projected costs. The Town stated that the additional funding would be in the form of a Small Cities Block Grant in the amount of \$744,400 and would have no impact on the Town's sewer rates.

On July 27, 1999, Commission Staff filed an Initial and Final Joint Staff Memorandum recommending that the Commission reopen this proceeding and approve the additional funding in an expedited fashion.

IT IS THEREFORE ORDERED that the Town's petition to reopen this proceeding is hereby granted.

IT IS FURTHER ORDERED that revised funding for this project is hereby approved as follows:

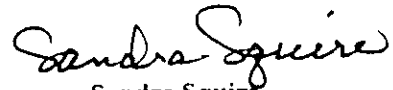
Rural Utilities Services Grant	\$ 572,500
Small Cities Block Grant	1,119,400
Advance Assistance Grant	27,400
Rural Utilities Services Loan	800,000
<u>State Revolving Fund Loan</u>	<u>375,000</u>
 Total funding	 \$2,894,300

IT IS FURTHER ORDERED that if there are any further changes in the terms, conditions, scheduling or financing of the project, the Town shall seek the Commission's approval of such changes.

IT IS FURTHER ORDERED that upon entry hereof this matter shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:


Sandra Squire
Executive Secretary

JML/lfg/pja
980466c.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

10-19-98

Entered: September 29, 1998

CASE NO. 98-0466-S-CN

TOWN OF MIDDLEBOURNE,
a municipal corporation,

Application for a certificate of convenience
and necessity to construct a sewerage treatment
plant, line additions, and improvements in
Tyler County.

RECOMMENDED DECISION

On April 16, 1998, the Town of Middlebourne (Town), by counsel Gary L. Rymer, filed with the Public Service Commission (Commission), pursuant to W.Va. Code §24-2-11, an application for a certificate of convenience and necessity to construct a sewerage treatment plant, line additions, and improvements in Tyler County, and for approval of funding. The application estimated that the construction costs of the project would total approximately \$2,149,900, to be financed by various grants and loans. Attached to the application was a Rule 42 Exhibit, which included a "Proposed Tariff," raising the Town's rates and charges.

On March 26, 1998, the Commission ordered the Town to publish the Notice of Filing. The notice provided that, if no protests were received within thirty days of publication, the Commission might waive formal hearing and grant the application based on the evidence submitted with the application.

On May 4, 1998, Staff Attorney Cassius H. Toon filed an Initial Joint Staff Memorandum, with attached memorandum from Robert M. Hubbard, Senior Utilities Analyst, and Audra L. Blackwell, Technical Analyst-in-Training, Water and Wastewater Division. Staff stated that plans and specifications were filed on April 20, 1998. Staff further stated that the funding sources would be as follows: a \$572,500 Rural Utilities Services (RUS) grant; a \$375,000 Small Cities Block (SCB) grant; a \$27,400 Advance Assistance Grant; an \$800,000 RUS loan; and a \$375,000 State Revolving Fund loan. Moreover, they stated that they planned to meet with Town representatives and would submit a data request after the meeting.

On May 8, 1998, the Commission, by Order, referred this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before November 12, 1998.

On May 11, 1998, the Town submitted further documents, including approval of the RUS grant and loan, approval of the SCB grant, and a March 26, 1996 letter from the Friendly Public Service District agreeing to permit the Town to provide sewer service to the Bridgeway area.

On June 1, 1998, the Town filed an affidavit of publication establishing that the Notice of Filing had been published on May 20, 1998, in the Tyler Star News.

On June 5, 1998, Staff Attorney Cassius H. Toon filed a Final Joint Staff Memorandum, stating that Staff had received the information requested of the Town and would be making their final recommendation upon completion of their review.

On July 7, 1998, the undersigned ALJ issued a Procedural Order that required the Town to file with the Commission, as soon as possible, the information required by Code §24-2-4b regarding passage of a rate ordinance.

On August 21, 1998, the Town filed the following: a letter of commitment from the United States Environmental Protection Agency granting it an advance allowance for the facilities planning for the project in the amount of \$27,417, and a commitment letter for the \$375,000 SCB grant at an annual interest rate of 2% plus a 1% annual administrative fee.

On August 31, 1998, the Town filed a copy of the 1994 NPDES Water Pollution Control Permit.

On September 16, 1998, the undersigned ALJ issued a Procedural Order, explaining that, since the decision due date in this matter was less than two months hence and Commission Staff had not filed their final recommendation, it was appropriate to schedule this matter for a hearing. Hearing was therefore scheduled for 1:00 p.m. on September 30, 1998, in the County Commission Room, Tyler County Courthouse, Middlebourne, West Virginia.

On September 24, 1998, Mr. Toon filed a motion to the Commission to extend the ALJ decision due date and a motion to the undersigned ALJ to reschedule the hearing. He explained that Staff was not in the position to make a final recommendation because the Town's modified NPDES has not been issued and DEP estimates the permit will not be issued until approximately mid-October.

On September 28, 1998, Mr. Toon withdrew the motions.

On September 29, 1998, Mr. Toon filed a Further Final Joint Staff Memorandum, with an attached August 26, 1998 memorandum from Mr. Hubbard and Ms. Blackwell. Ms. Blackwell

specified the components of the total project cost of \$2,149,900, including the construction cost of \$1,360,000, and further explained the following: The proposed project is based on two separate contracts, one for construction of upgrades to the wastewater treatment plant, and one for sewer system rehabilitation and construction of the Bridgeway collection system. The present treatment plant, built in 1973, often operates at 50% or more over capacity, and, when it does, raw sewage discharges into Middle Island Creek, in violation of the Town's permit. The plant also has problems with sludge treatment and experiences excessive inflow and infiltration. Finally, new development in the area and a new consolidated high school require wastewater collection and treatment. The Town has a Class II operator. The project will add 624 customers to the Town's present 4,749. The cost per customer is \$400, which Ms. Blackwell found to be very reasonable. Moreover, she found the projected additional annual operation and maintenance costs of approximately \$12,691, due primarily to pumping system expenses, to be reasonable. Ms. Blackwell, accordingly, concluded that the project was necessary and needed, and would not financially burden the Town or its customers.

Mr. Hubbard provided the components of the project's funding, which were unchanged from the Initial Joint Staff Memorandum, and stated that confirmation of all funding had been filed. He further stated that the RUS loan is projected at an interest rate of 5%, payable over a period of forty years. The monthly payments for the first two years will be for interest only. A 10% debt service reserve in the amount of \$4,714 will also be required. The SRF loan is projected at an interest rate of 2% plus an administration fee of 1% and is scheduled for repayment over a period of twenty years, with the monthly payments equally amortized. A 15% debt service is also required. Interim financing will be accomplished through a credit agreement with the Union Bank of Tyler County for an amount not to exceed \$450,000 at an interest rate not to exceed 8%. Mr. Hubbard stated that the Town had passed a rate ordinance, fulfilling all legal requirements, and the rates have been in effect since August 15, 1998.

Technical Staff concluded that they could not make their final recommendation, due to the lack of the Town's modified NPDES permit, but no hearing was needed since no protest had been filed. Mr. Toon recommended that the certificate be issued, contingent upon receipt of the permit, and the funding be approved without hearing.

DISCUSSION

It is appropriate to grant the application, contingent upon receipt of the permit, and to approve the funding. The hearing will be canceled by separate order.

FINDINGS OF FACT

1. On April 16, 1998, the Town of Middlebourne filed with the Commission an application for a certificate of convenience and necessity to construct a sewerage treatment plant, line additions, and improvements in Tyler County, and for approval of funding. The proposed project is based on two separate contracts, one for construction of upgrades to the wastewater treatment plant, and one for sewer system rehabilitation and construction of the Bridgeway collection system. (See application; Further Final Joint Staff Memorandum filed September 29, 1998).

2. The present treatment plant, built in 1973, often operates far above capacity and, when it does, raw sewage discharges into Middle Island Creek, in violation of the Town's 1994 NPDES permit. The plant also has problems with sludge treatment and experiences excessive inflow and infiltration. Finally, new development in the area and a new consolidated high school require waste treatment. (See Further Final Joint Staff Memorandum filed September 29, 1998).

3. The total project cost is estimated at \$2,149,900, including the construction cost of \$1,360,000. The project will add 624 customers to the Town's present 4,749, at a cost per customer of \$400, which Staff opined is very reasonable. Staff also found the additional annual operation and maintenance costs of approximately \$12,691 to be reasonable. (See Further Final Joint Staff Memorandum filed September 29, 1998).

4. The funding sources for the project are as follows: a \$572,500 Rural Utilities Services (RUS) grant; a \$375,000 Small Cities Block (SCB) grant; a \$27,400 Advance Assistance Grant; an \$800,000 RUS loan; and a \$375,000 State Revolving Fund loan. Commitment letters have been filed on all funding sources. The RUS loan is projected at an interest rate of 5%, payable over a period of forty years. The monthly payments for the first two years will be for interest only. A 10% debt service reserve in the amount of \$4,714 will also be required. The SRF loan is projected at an interest rate of 2% plus an administration fee of 1% and is scheduled for repayment over a period of twenty years, with the monthly payments equally amortized. A 15% debt service is also required. Interim financing will be accomplished through a credit agreement with the Union Bank of Tyler County for an amount not to exceed \$450,000 at an interest rate not to exceed 8%. The Town passed a rate ordinance, fulfilling all legal requirements, and the rates have been in effect since August 15, 1998. (See Initial Joint Staff Memorandum filed May 4, 1998; May 11, 1998, and August 21, 1998 filings; Further Final Joint Staff Memorandum filed September 29, 1998).

5. The Town's modified NPDES permit has not been received. It is estimated that it will not be issued until mid-October, 1998. (See September 24, 1998 filing; Further Final Joint Staff Memorandum filed September 29, 1998).

6. The Notice of Filing was published on May 20, 1998, in the Tyler Star News, and no protest was filed. (See affidavit of publication filed June 1, 1998; case file generally).

7. Staff recommended that the certificate of convenience and necessity and convenience be approved, contingent upon receipt of a modified NPDES permit, and that funding for the project be approved. (See Further Final Joint Staff Memorandum filed September 29, 1998).

CONCLUSION OF LAW

Because the project is needed; no protest to the application has been filed; and Commission Staff recommended that the application be granted, contingent upon receipt of a modified NPDES permit, and that the funding be approved, it is appropriate to grant the application and to approve the project and its funding.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed by the Town of Middlebourne on April 16, 1998, to construct a sewerage treatment plant, line additions and improvements in Tyler County, be granted, contingent upon receipt of the required NPDES permit, and the project be approved. Construction may not commence until the NPDES permit is issued.

IT IS FURTHER ORDERED that the funding for the project, a \$572,500 Rural Utilities Services grant; a \$375,000 Small Cities Block grant; a \$27,400 Advance Assistance Grant; an \$800,000 RUS loan at an interest rate of 5%, payable over a period of forty years; a \$375,000 State Revolving Fund loan at an interest rate of 2% plus an administration fee of 1%, payable over a period of twenty years; and interim financing through a credit agreement with the Union Bank of Tyler County for an amount not to exceed \$450,000 at an interest rate not to exceed 8%, be approved.

IT IS FURTHER ORDERED that, if there is any change in any of the terms, conditions, scheduling, or financing of the project, the Town of Middlebourne notify the Public Service Commission and file for Commission approval of any such revision.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon Commission Staff by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary within fifteen (15) days of the date this order is mailed. If exceptions are filed,

the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed, this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

A handwritten signature in black ink, appearing to read 'Sunya Anderson', with a long horizontal line extending to the right.

Sunya Anderson
Administrative Law Judge

SA:s

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 20th day of April, 1998.

CASE NO. 98-0466-S-CN

TOWN OF MIDDLEBOURNE,
a municipal corporation,

Application for a certificate of convenience and
necessity to construct a sewerage treatment plant,
line additions, and improvements in Tyler County.

APR 20 1998

NOTICE OF FILING

WHEREAS, on April 16, 1998, the Town of Middlebourne (Town) filed an application, duly verified, for a certificate to construct a sewerage treatment plant, line additions, and improvements. The application is on file with and available for public inspection at the Public Service Commission.

WHEREAS, the District estimates that construction will cost approximately \$2,149,900. It is proposed that the construction will be financed as follows: Rural Utilities Services (RUS) loan not to exceed \$800,000.00, a RUS grant not to exceed \$572,500.00, and other funding in the amount of \$777,400.00.

WHEREAS, the Town anticipates charging the following sewer rates for its customers:

First	3,000 gallons	\$ 7.10 per 1,000 gallons
Next	3,000 gallons	\$ 4.35 per 1,000 gallons
Next	14,000 gallons	\$ 3.89 per 1,000 gallons
All over	20,000 gallons	\$ 3.17 per 1,000 gallons

MINIMUM MONTHLY BILL

No bill shall be rendered for less than \$21.30 per month.

CHARGE FOR WATER TREATMENT PLANT

\$63.45 per month plus the charge of the metered backwash consumption through the metered rates.

NON-METERED RATES

Residential, commercial and industrial service:	\$27.83 per month per customer
Public Authority Service:	\$40.19 per month per customer

DELAYED PAYMENT PENALTY

Bills are payable when rendered. On all accounts not paid in full within twenty (20) days of the date of bill, ten percent (10%) will be added to the net amount shown. If any bill is not paid within forty (40) days of the date thereof, water service to the customer shall be shut off and the meter locked. On such shutting off of service, water service shall not be restored until all past due bills have been paid in full, and all accrued penalties plus a reconnect charge of fifteen (\$15.00) dollars. Notice of discontinuance will be given in accordance with Public Service Commission Rules and Regulations pertaining to Sewer Utilities and Water Utilities.

CONNECTION CHARGE

Prior to Construction = \$100.00

The connection charge to each new customer in advance, following completion of the project, shall be \$250.00 or actual cost of installation, including materials and labor, whichever is greater.

MULTIPLE OCCUPANCY

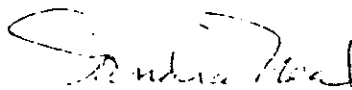
On apartment buildings or other multiple occupancy buildings, house trailer (mobile home) court or park, each family or business unit shall be required to pay not less than the minimum monthly charge herein established. Motels and hotels shall pay according to the size of the meter installed.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the Town of Middlebourne give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Tyler County, making due return to this Commission of proper certification of publication immediately after publication.

Anyone desiring to make objection to said application must do so in writing, within thirty (30) days after the publication of this notice, to Sandra Neal, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said 30-day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

FOR THE COMMISSION



Sandra Neal
Executive Secretary

SN:s



United States
Department of
Agriculture

Rural
Utilities
Service

P.O. Box 303
Parkersburg, WV 26102
Telephone 304-420-6666
TTY/TDD 1-800-982-8771
Fax 304-420-6876

January 26, 1996

Honorable Gayla S. Fisher
Mayor, Town of Middlebourne
P.O. Box 167
Middlebourne, WV 26149

Dear Mayor Fisher:

This letter, with attachments 1 through 12 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by Rural Utilities Service (RUS) (formerly known as Farmers Home Administration) by written amendment to this letter. Any changes not approved by RUS shall be cause for discontinuing processing of the application.

This letter is not to be considered as loan and grant approval or as representation to the availability of funds. The docket may be completed on the basis of an RUS loan not to exceed \$800,000, an RUS grant not to exceed \$572,500, and other funding in the amount of \$1,577,417, for a total project cost of \$2,149,917. The other funding is planned in the form of a grant(s) from the State of West Virginia.

If the loan is made, you may make a written request that the interest rate be the lower of the rate in effect at the time of loan approval or the time of loan closing. If you do not request the lower of the two interest rates, the interest rate charged will be the rate in effect at the time of loan approval. The loan will be considered approved on the date a signed copy of Form FmHA 1940-1, "Request for Obligation of Funds," is mailed to you. If you want the lower of the two rates, your written request should be submitted to RUS as soon as practical. In order to avoid possible delays in loan closing, such a request should ordinarily be submitted at least 30 calendar days before loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

- Attachment No. 1 - Final Project Planning Factors
(All Copies)
- Attachment No. 2 - Loan and Grant Docket Table of Contents
(All Copies)
- Attachment No. 3 - FmHA Instruction 1942-A, Section 1942.17
(Applicant Copy)

RUS

Rural Utilities Service is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:

- Attachment No. 4 - FmHA Instruction 1942-A, Section 1942.18
(Engineer Copy)
- Attachment No. 5 - FmHA Instruction 1942-A, Section 1942.19
(Attorney and Bond Counsel Copies)
- Attachment No. 6 - FmHA Supplemental General Conditions
(Engineer Copy)
- Attachment No. 7 - Standards for Audit of Governmental Organizations, Programs,
Activities and Functions (Accountant's Copy)
- Attachment No. 8 - U.S. Department of Agriculture Farmers Home Administration Audit
Program, December 1989 (Accountant's Copy)
- Attachment No. 9 - Sewer Users Agreement
(Applicant and Attorney Copies)
- Attachment No. 10 - Declination Statement (Applicant and Attorney Copies)
- Attachment No. 11 - Sample Credit Agreement (Applicant and Attorney Copies)
- Attachment No. 12 - Various other FmHA Forms as identified on Attachment No. 2

Your documents concerning the creation of your authority are administratively acceptable; however, they will be further reviewed by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 5.0% interest rate and a monthly amortization factor of 0.00491, which provides for a monthly payment of \$3,928.00. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account in an amount equal to at least 1/10th of your monthly debt service payment.

You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of RUS if at anytime it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

2. Security - The loan must be secured by a statutory lien of the highest priority available. The Town's previous bond issue was sold in the 1987 Asset Sale. It will be necessary for the Town's bond counsel to contact the General Electric Capital Corporation, 10777 Westheimer, Suite 1200, Houston, Texas 77042 to determine the best lien position that can be realized in connection with the new \$800,000 issue. Also a pledge of the system's revenues and other agreements between you and the lender (RUS) as set forth in the bond resolution, which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in Form FmHA 1942-31 and Form FmHA 1942-47 which are mentioned later.
3. Users - This conditional commitment is based upon your providing evidence that you will have at least 446 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of signed users agreements and a certification from you that

identifies and attests to the number of users that are actually connected to and using the Town's existing sewer system, which is to be partially replaced by the new system, at the time you request authorization to advertise the proposed project for construction bids.

The enclosed Sewer Users Agreement will be used. Each user signing an agreement must make a users contribution of \$100.00. Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a service declination statement. Guide 3, FmHA Instruction 1942-A, "Service Declination Statement," a copy of which is enclosed, must be used. If a potential user refuses to sign either a users agreement or a declination statement, the individual making the contact for the Town should complete the declination statement for that potential user and note thereon his/her visit with the potential user, the potential user's refusal to sign, and the reason therefore. The declination statement should also be dated and signed by the individual making the contact. Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and that all potential users have been offered the proposed service.

Information and material evidencing compliance with this requirement must consist of (1) your certification (written) as to the number of users connected to and using the sewer service of the existing system (paying monthly bills), (2) signed users agreements, (3) signed service declination statements, (4) records evidencing users contributions having been paid, (5) a map locating each potential users property in the new service area and identifying it by number, (6) a list of all signed bona fide users numbered with corresponding numbers so as to be a cross-reference with the map required by (5) above and, (7) a list of all declination statements numbered with corresponding numbers so as to be a cross-reference with the map required by (5) above.

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Section 1942.19 of FmHA Instruction 1942-A. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
5. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
 - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form FmHA 1927-9, "Preliminary Title Opinion," may be used. Also, in the case of existing systems or where the Town has already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
 - c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

- d. A copy of the right-of-way easements for any rights-of-way needed on private lands. Form FmHA 442-20, "Right-of-Way Easement," may be used. Each easement need not be provided this office; however, each must be available for review. A copy of the easement being used must be provided.
 - e. A certification and legal opinion relative to title to rights-of-way and easements Form FmHA 442-21, "Right-of-Way Certificate," and Form FmHA 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. These forms may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, new Forms, FmHA 442-21 and 442-22, must be provided which do not provide for any exceptions.
 - f. On the day of loan closing, the Town's attorney must furnish final title opinions on all land(s) being acquired. In the case of existing systems or where the Town has already acquired real property(s) (land or facilities), the Town's attorney will provide a separate final title opinion(s), Form FmHA 1927-10 covering such property(s) on the day of loan closing.
6. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
- West Virginia Department of Highways
 - Department of Environmental Protection (formerly Dept. of Natural Resources)
 - Public Land Corporation
7. Public Service Commission Approvals - You must obtain the following from the Public Service Commission of West Virginia:
- a. A Certificate of Convenience and Necessity.
 - b. Approval of user charges that are acceptable to you and the Rural Utilities Service.
 - c. Approval of financing for the project's proposed financing arrangements.
- The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.
8. Accounting - You must obtain the services of a qualified accountant. That accountant must agree (by letter) to develop and provide the following:
- a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42).
 - b. Prior to advertisement for bids, your accountant must state in writing that he will establish your accounts and records in accordance with the requirements of the ordinance, and the requirements of the Public Service Commission within 20 days from the notice to do such.
 - c. Prior to the start of construction, the accountant must certify that the accounts and records as required in (b) above have been established and are operational.

A representative of my office will review your accounts and records prior to authorizing the issuance of award(s) to the contractor(s). FmHA regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements for your Town. The attached booklet, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," (Attachment No. 7) and "U. S. Department of Agriculture Farmers Home Administration Audit Program," (December 1989) (Attachment No. 8) outlines FmHA Audit requirements. You are reminded that certain provisions of Office and Management and Budget Circular A-128 are applicable to any public body that received \$100,000 or more in federal funds in any one year. You must enter into an agreement annually with an accountant (or the State Tax Commission) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia.

Audit Reports must be prepared to comply with the requirements of OMB Circular A-128 or A-133, as applicable.

9. Insurance and Bonding Requirements:

a. Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:

- (1) Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000-\$200,000. The limits of liability coverage noted herein should be considered as suggested amounts only. RUS recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.
- (2) Workers' Compensation - In accordance with appropriate State laws.
- (3) Position Fidelity Bond(s) - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RUS will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s). Form FmHA 440-24, "Position Fidelity Bond," may be used.
- (4) National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
 - (a) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 - (b) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
- (5) Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to

water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

10. You are, have been or may be approved to become, a recipient of Federal financial assistance from the United States Department of Agriculture. In the case of *Paralyzed Veterans of America, et al. Plaintiff, V. William French Smith, et al, Defendants*, United States District Court, Central District of California, No. 79-1979 WPG, the Honorable William P. Gray ordered the United States Department of Agriculture to notify you that as a recipient of such assistance you are required to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794), even though the United States Department of Agriculture has not yet issued final regulations implementing Section 504 of the Rehabilitation Act.

Section 504 of the Rehabilitation Act is designed to assure that those who receive Federal financial assistance will not discriminate against handicapped persons. It provides in relevant part as follows:

"No otherwise qualified handicapped individual in the United States. . . shall, solely by reason of is handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Effective June 3, 1977, the Department of Health and Human Services issued final regulations implementing Section 504 as it applies to recipients of Federal financial assistance from that agency (45 C.F.R. Part 84). You may look to the HHS regulation for guidance as to your obligation under Section 504 of the Rehabilitation Act.

11. Contract Documents, Final Plans and Specifications:

- a. The contract documents should consist of the following:

- (1) FmHA Instruction 1942-A, Guide 19, "Agreement," and Attachments 1-9 (Attachment No. 4) or other agreement approved by RUS.
- (2) Farmers Home Administration Supplemental General Conditions (Guide 18, 4-6-92 Revised WV). One copy of this item is attached hereto (Attachment No. 6). Additional copies must be reproduced by the engineer.

- b. The Contract documents must provide, as a minimum, the following insurance:

- (1) Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000-\$200,000. (This coverage must include indemnification of the Town and its engineer.) FmHA Guide 18 suggests certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
- (2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
- (3) Workers' Compensation - In accordance with applicable State laws.

- c. The contract documents and final plans and specifications must be submitted to RUS for approval.
 - d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
12. Interim Financing - Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. The enclosed Sample Credit Agreement (Attachment No. 11) is an acceptable agreement and may be used.
 13. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover RUS's proportionate share of any disbursements required of your Town, over 30 day periods. Any funds not disbursed immediately upon receipt must be deposited in an interest bearing account in accordance with OMB Circular A-133. Interest earned on these funds must be remitted promptly, at least quarterly, to Rural Utilities Service. The Town must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.
 14. Other Grants - Prior to advertisement for construction bids, you must provide evidence showing the approval of the other grants. This evidence should include a copy of the grant award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the "other" grant funds are available for expenditure. This evidence should consist of at least a letter from the grantor stating the funds are available for expenditure.
 15. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

Form FmHA 442-7 - "Operating Budget"
Form FmHA 1940-1 - "Request for Obligation of Funds"
Form FmHA 1942-31 - "Association Water or Sewer System Grant Agreement"
Form FmHA 1942-47 - "Loan Resolution -- (Public Bodies)"
Form FmHA 400-1 - "Equal Opportunity Agreement"
Form FmHA 400-4 - "Assurance Agreement"
Form AD 1047 - "Certification Regarding Debarment - Primary"
Form AD 1049 - "Certification Regarding Drug-Free Workplace"
Form FmHA 1910-11 - "Applicant Certification, Federal Collection Policies"
FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
 16. The enclosed Loan Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the RECD State Office with a request for loan closing instructions to be issued.
 17. Upon receipt of the loan and grant docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards.

18. When the items required by item 17 have been received by the RECD State Office, they will be included in the loan docket. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the preliminary loan closing will be scheduled.

Attached is a copy of Form FmHA 1942-31, "Association Water and Sewer System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RUS project funds will be considered to be RUS grant funds and refunded to RUS. If the amount of unused RUS project funds exceeds the RUS grant, that part would be RUS loan funds.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Please complete and return the enclosed Form FmHA 1942-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application.

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the six-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

Sincerely yours,

NEY R. WILLIAMSON, JR.
Rural Development Manager

cc: Administrator, RUS
Attn: Water and Waste
Disposal Division
Washington, DC

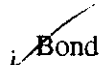
State Director, RECD
Morgantown, WV

Accountant

Kathryn Drost, MOVRC
Parkersburg, WV

Community Development Manager, RECD
New Martinsville, WV

Gary L. Rymer
Middlebourne, WV

 Bond Counsel

Cerrone and Associates, Inc.
Wheeling, WV

Project Planning Factors

The following estimates are to be used as a basis for project planning and must not be changed without prior approval of RUS:

<u>Project Costs</u>	<u>Advance Assistance Grant</u>	<u>SRF Loan</u>	<u>SCB Grant</u>	<u>RUS Grant</u>	<u>RUS Loan</u>	<u>Total</u>
Administration			35,000			35,000
Construction			326,900	457,300	575,800	1,360,000
Construction Contg.				60,200	75,800	136,000
Land and Rights				8,900	11,100	20,000
Legal Fees				8,900	11,100	20,000
Engineering Fees	27,400	375,000	13,000			415,500
Basic 227,500						
Insp. 125,000						
Spec. 63,000						
Bond Counsel				6,600	8,400	15,000
Interest					80,000	80,000
Proj. Contg.	_____	_____	_____	<u>30,600</u>	<u>37,800</u>	<u>68,400</u>
TOTALS	27,400	375,00	375,000	572,500	800,000	2,149,900

Availability of Service

Available for all general domestic, commercial and industrial service.

Rate (Based on metered water consumption)

First 3,000 gallons used per month \$7.10 per 1,000 gallons
Next 3,000 gallons used per month \$4.35 per 1,000 gallons
Next 14,000 gallons used per month \$3.89 per 1,000 gallons
Over 20,000 gallons used per month \$3.17 per 1,000 gallons

Minimum Charge

No bill shall be rendered for less than \$21.30 per month.

Charge for Water Treatment Plant

\$63.45 per month plus the charge of the metered backwash consumption through the metered rates.

Non-Metered Rates

Residential, commercial and industrial service: \$27.83 per month per customer

Public Authority Service: \$40.19 per month per customer

Delayed Payment Penalty

Bills are payable when rendered. On all account not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. If any bill is not paid within forty (40) days of the date thereof, water service to the customer shall be shut off and the meter locked. On such shutting off of service, water service shall not be restored until all past due sewer bills shall have been paid in full, and all accrued penalties plus a reconnect charge of fifteen (\$15.00) dollars. Notice of discontinuance will be given in accordance with Public Service Commission Rules and Regulations pertaining to Sewer Utilities and Water Utilities.

Connection Charge

Prior to construction - \$100.00

The connection charge to each new customer in advance, following completion of the project, shall be \$250.00 or actual cost of installation, including materials and labor, whichever is greater.

Multiple Occupancy

On apartment buildings or other multiple occupancy building, house trailer (mobile home) court or park, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a 5/8" meter. Motels and hotels shall pay according to the size of the meter installed.

Use and Income Analysis (Existing Customers)

204 users @	3,000 gallons @	\$ 21.30 per user =	\$4,345.20 monthly
46 users @	4,000 gallons @	\$ 25.65 per user =	\$1,179.90 monthly
41 users @	5,000 gallons @	\$ 30.00 per user =	\$1,230.00 monthly
33 users @	6,000 gallons @	\$ 34.35 per user =	\$1,133.55 monthly
23 users @	7,000 gallons @	\$ 38.24 per user =	\$ 879.52 monthly
14 users @	8,000 gallons @	\$ 42.13 per user =	\$ 589.82 monthly
8 users @	9,000 gallons @	\$ 46.02 per user =	\$ 368.16 monthly
5 users @	10,000 gallons @	\$ 49.91 per user =	\$ 249.55 monthly
8 users @	11,000 gallons @	\$ 53.80 per user =	\$ 430.40 monthly
5 users @	15,000 gallons @	\$ 69.36 per user =	\$ 346.80 monthly
3 users @	28,000 gallons @	\$114.17 per user =	\$ 342.51 monthly
2 users @	40,000 gallons @	\$152.21 per user =	\$ 304.42 monthly
1 user @	168,000 gallons @	\$557.97 per user =	\$ 557.97 monthly
1 user @	205,000 gallons @	\$675.26 per user =	\$ 675.26 monthly

Total \$12,633.06 monthly x 12 = \$151,597 annually

Proposed Bridgeway Extension

16 users @ 3,000 gallons @ \$21.30 per user = \$340.80 monthly
 13 users @ 4,000 gallons @ \$25.65 per user = \$333.45 monthly
 10 users @ 5,000 gallons @ \$30.00 per user = \$300.00 monthly
 8 users @ 6,000 gallons @ \$34.35 per user = \$274.80 monthly
 4 users @ 7,000 gallons @ \$38.24 per user = \$152.96 monthly
 1 user @ 8,000 gallons @ \$42.13 per user = \$ 42.13 monthly

Total \$1,444 monthly x 12 = \$17,328 annually

Budget

Income

Sales	\$168,925
Penalties & Misc.	<u>3,275</u>
	\$172,180

Expenses

O & M	\$85,627
Debt Service	85,706
Reserve	857

\$172,180

Balance and Depreciation \$ 0

Operating and Maintenance Expenses

Admin. and General	\$31,300
Collection	\$13,500
Pumping	\$24,200
Treatment	\$10,200
Billing and Collection	\$ 3,100
Miscellaneous	<u>\$ 3,317</u>
Total	\$85,617

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Bureau of Environment (the "DEP"), and the local government designated below (the "Local Government").

TOWN OF MIDDLEBOURNE

(Local Government)

WITNESSETH:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of

wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

WHEREAS, the Local Government is included on the DEP State Project Priority List and the Intended Use Plan and has met DEP's pre-application requirements for the Program;

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

WHEREAS, the Local Government intends to construct, is constructing or has constructed such a wastewater treatment project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Government has completed and filed with the Authority and DEP an Application for a Loan with attachments and exhibits and an Amended Application for a Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Government, DEP and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and DEP to the Local Government through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 "Local Act" means the official action of the Local Government required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.9 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.10 "SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.12 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Government by the Consulting Engineers, the DEP and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Local Government has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Government by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Government, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by DEP and the Authority.

2.4 The Local Government agrees that the Authority and DEP and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Government further agrees that the Authority and DEP and their respective duly authorized agents shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and DEP with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Government agrees that it will permit the Authority and DEP and their respective agents to have access to the records of the Local Government pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Local Government shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

2.11 The Local Government hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Government, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority.

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward the Form to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and DEP to make the Loan is subject to the Local Government's fulfillment, to the satisfaction of the Authority and DEP, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Local Government shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Government shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Government shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

(e) The Local Government shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(g) The Local Government shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date set forth in Exhibit E hereto.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The

Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

Local Bonds; Security for Loan;
Repayment of Loan; Interest on Loan;
Fees and Charges

4.1 The Local Government shall, as one of the conditions of the Authority and DEP to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Government in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving

or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the reserve account established for the payment of debt service on the Local Bonds is funded (whether by Local Bond proceeds, monthly deposits or otherwise) the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Government will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and

on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Local Government will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Local Government will not render any free services of the System;

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal or of interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Government will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

(xii) That the Local Government shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Local Government will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project; and

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will

not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit G.

4.2 The Loan shall be secured by the pledge and assignment by the Local Government, as effected by the Local Act, of the fees, charges and other revenues of the Local Government from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

ARTICLE V

Certain Covenants of the Local Government; Imposition and Collection of User Charges; Payments To Be Made by Local Government to the Authority

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have

recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the SRF Regulations or this Loan Agreement.

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

6.6 The Local Government hereby agrees to give the Authority and DEP prior written notice of the issuance by it of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Schedule Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local Government supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.5 This Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Government specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the legislature or otherwise being available to make the Loan. In the event funds are not appropriated or otherwise available to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is terminated; provided further that the obligation of the Local Government to repay the amount of the Loan made by the Authority and DEP as set forth in (iii) above is not terminated due to such non-funding on any balance on the Loan. The DEP agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default under the Loan Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

Town of Middlebourne

[Proper Name of Local Government]

(SEAL)

By: Charles Fisher
Its: Mayor

Attest:

Date: Aug 6, 1999

Beth C. Fourn
Its Recorder

WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION

By: Barbara Baker
Its: Chief

Date: 8/11/99

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By: David R. Lyubarsky
Its: Director

Attest:

Date: August 4, 1999

Barbara B. Meadows
Secretary-Treasurer

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - ____

Report Month: _____

	<u>ITEM</u>	<u>CURRENT</u> <u>MONTH</u>	<u>YEAR TO</u> <u>DATE</u>	<u>BUDGET</u> <u>YEAR TO</u> <u>DATE</u>	<u>BUDGET</u> <u>DIFFERENCE</u>
1.	Gross Revenues Collected				
2.	Operation and Maintenance Expense				
3.	Other Bond Debt Payments (including Reserve Fund deposits)				
4.	SRF Bond Payments (include Reserve Fund deposits)				
5.	Renewal and Replacement Fund Deposit				
6.	Funds available for capital construction				

Witnesseth my signature this ____ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19____, effective _____, 19____, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19____.

1. The Bonds are being issued for the purpose of

(the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the _____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and

acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19 ____.

By _____

West Virginia License No. ____

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

A. The recipient agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives \$300,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133 or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
180 Association Drive
Charleston WV 25311-1571

Re: [Name of bond issue]

Dear Sirs:

The following deposits were made to the West Virginia Municipal Bond
Commission on behalf of [Local Government] on _____, ____.

Sinking Fund:

Interest \$_____

Principal \$_____

Total: \$_____

Reserve Fund: \$_____

Witness my signature this ____ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston WV 25311-1571

Gentlemen:

We are bond counsel to _____ (the "Local Government"), a
_____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of \$_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
-------------	--------------------	----------------------

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority.

3. The Local Government is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 375,000
Purchase Price of Bonds	\$ 375,000

Interest on the Bonds shall be zero percent from the date of delivery to and including August 31, 2000. Principal and interest on the Bonds is payable quarterly, commencing Dec. 1, 2000, at a rate of 2 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt]. (~~See attached schedule~~)

The Local Government shall submit its payments monthly to the West Virginia Municipal Bond Commission with instructions that the West Virginia Municipal Bond Commission will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the Bond Commission in writing by the Authority. If the Reserve Fund is not fully funded at closing, the Local Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Bond Commission. The Local Government shall instruct the Bond Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

The Local Government may prepay the Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the Bonds which request must be filed at least 60 days prior to the intended date of issuance.

SCHEDULE Y

Town of Middlebourne (West Virginia)
Loan Amount of \$375,000
20 Years, 2% Interest Rate, 1% Administrative Fee
Closing Date: August 27, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
9/01/1999	-	-	-	-
12/01/1999	-	-	-	-
3/01/2000	-	-	-	-
6/01/2000	-	-	-	-
9/01/2000	-	-	-	-
12/01/2000	3,824.00	2.000%	1,875.00	5,699.00
3/01/2001	3,843.00	2.000%	1,855.88	5,698.88
6/01/2001	3,862.00	2.000%	1,836.67	5,698.67
9/01/2001	3,881.00	2.000%	1,817.36	5,698.36
12/01/2001	3,901.00	2.000%	1,797.95	5,698.95
3/01/2002	3,920.00	2.000%	1,778.45	5,698.45
6/01/2002	3,940.00	2.000%	1,758.85	5,698.85
9/01/2002	3,960.00	2.000%	1,739.15	5,699.15
12/01/2002	3,980.00	2.000%	1,719.35	5,699.35
3/01/2003	3,999.00	2.000%	1,699.45	5,698.45
6/01/2003	4,019.00	2.000%	1,679.45	5,698.45
9/01/2003	4,040.00	2.000%	1,659.36	5,699.36
12/01/2003	4,060.00	2.000%	1,639.16	5,699.16
3/01/2004	4,080.00	2.000%	1,618.86	5,698.86
6/01/2004	4,100.00	2.000%	1,598.46	5,698.46
9/01/2004	4,121.00	2.000%	1,577.96	5,698.96
12/01/2004	4,142.00	2.000%	1,557.35	5,699.35
3/01/2005	4,162.00	2.000%	1,536.64	5,698.64
6/01/2005	4,183.00	2.000%	1,515.83	5,698.83
9/01/2005	4,204.00	2.000%	1,494.92	5,698.92
12/01/2005	4,225.00	2.000%	1,473.90	5,698.90
3/01/2006	4,246.00	2.000%	1,452.77	5,698.77
6/01/2006	4,267.00	2.000%	1,431.54	5,698.54
9/01/2006	4,289.00	2.000%	1,410.21	5,699.21
12/01/2006	4,310.00	2.000%	1,388.76	5,698.76
3/01/2007	4,332.00	2.000%	1,367.21	5,699.21
6/01/2007	4,353.00	2.000%	1,345.55	5,698.55
9/01/2007	4,375.00	2.000%	1,323.79	5,698.79
12/01/2007	4,397.00	2.000%	1,301.91	5,698.91
3/01/2008	4,419.00	2.000%	1,279.93	5,698.93
6/01/2008	4,441.00	2.000%	1,257.83	5,698.83
9/01/2008	4,463.00	2.000%	1,235.63	5,698.63
12/01/2008	4,486.00	2.000%	1,213.31	5,699.31
3/01/2009	4,508.00	2.000%	1,190.88	5,698.88
6/01/2009	4,531.00	2.000%	1,168.34	5,699.34
9/01/2009	4,553.00	2.000%	1,145.69	5,698.69
12/01/2009	4,576.00	2.000%	1,122.92	5,698.92
3/01/2010	4,599.00	2.000%	1,100.04	5,699.04
6/01/2010	4,622.00	2.000%	1,077.05	5,699.05
9/01/2010	4,645.00	2.000%	1,053.94	5,698.94
12/01/2010	4,668.00	2.000%	1,030.71	5,698.71
3/01/2011	4,691.00	2.000%	1,007.37	5,698.37

Town of Middlebourne (West Virginia)
Loan Amount of \$375,000
20 Years, 2% Interest Rate, 1% Administrative Fee
Closing Date: August 27, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2011	4,715.00	2.000%	983.92	5,698.92
9/01/2011	4,739.00	2.000%	960.34	5,699.34
12/01/2011	4,762.00	2.000%	936.65	5,698.65
3/01/2012	4,786.00	2.000%	912.84	5,698.84
6/01/2012	4,810.00	2.000%	888.91	5,698.91
9/01/2012	4,834.00	2.000%	864.86	5,698.86
12/01/2012	4,858.00	2.000%	840.69	5,698.69
3/01/2013	4,882.00	2.000%	816.40	5,698.40
6/01/2013	4,907.00	2.000%	791.99	5,698.99
9/01/2013	4,931.00	2.000%	767.45	5,698.45
12/01/2013	4,956.00	2.000%	742.80	5,698.80
3/01/2014	4,981.00	2.000%	718.02	5,699.02
6/01/2014	5,006.00	2.000%	693.11	5,699.11
9/01/2014	5,031.00	2.000%	668.08	5,699.08
12/01/2014	5,056.00	2.000%	642.93	5,698.93
3/01/2015	5,081.00	2.000%	617.65	5,698.65
6/01/2015	5,107.00	2.000%	592.24	5,699.24
9/01/2015	5,132.00	2.000%	566.71	5,698.71
12/01/2015	5,158.00	2.000%	541.05	5,699.05
3/01/2016	5,184.00	2.000%	515.26	5,699.26
6/01/2016	5,210.00	2.000%	489.34	5,699.34
9/01/2016	5,236.00	2.000%	463.29	5,699.29
12/01/2016	5,262.00	2.000%	437.11	5,699.11
3/01/2017	5,288.00	2.000%	410.80	5,698.80
6/01/2017	5,315.00	2.000%	384.36	5,699.36
9/01/2017	5,341.00	2.000%	357.78	5,698.78
12/01/2017	5,368.00	2.000%	331.08	5,699.08
3/01/2018	5,395.00	2.000%	304.24	5,699.24
6/01/2018	5,422.00	2.000%	277.26	5,699.26
9/01/2018	5,449.00	2.000%	250.15	5,699.15
12/01/2018	5,476.00	2.000%	222.91	5,698.91
3/01/2019	5,503.00	2.000%	195.53	5,698.53
6/01/2019	5,531.00	2.000%	168.01	5,699.01
9/01/2019	5,558.00	2.000%	140.36	5,698.36
12/01/2019	5,586.00	2.000%	112.57	5,698.57
3/01/2020	5,614.00	2.000%	84.64	5,698.64
6/01/2020	5,642.00	2.000%	56.57	5,698.57
9/01/2020	5,671.00	2.000%	28.36	5,699.36
Total	375,000.00	-	80,911.64	455,911.64 *

*Plus one-percent administrative fee of \$505.70 paid quarterly. Total fee paid over the life of the loan is \$40,456.



P.O. BOX 145, MIDDLEBOURNE, WV 26149, (304) 758-2191
P.O. BOX 177, SISTERSVILLE, WV 26175, (304) 652-3511

Town of Middlebourne
100 Main Street
Middlebourne, West Virginia 26149

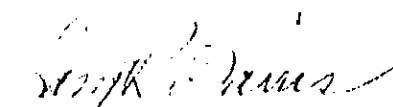
IN RE: Refunding Sewer Revenue Bonds

The Union Bank of Tyler County hereby commits to purchase, at face, refunding bonds issued by the Town of Middlebourne sanitary sewage works to provide funds for the redemption of the outstanding balance due on 1973 or 1974 Sewage Refunding Bonds in the approximate amount of \$120,000.00 with the understanding the refunding bonds will be as follows:

1. Used only to provide funds for redemption of the existing outstanding bonds.
2. The refunding bonds will be in all respects under the same terms of the prior bonds, i.e. maturity date, interest rate, payment frequency, with the exceptions of the following:
 - a. The refunding bonds will be issued as parity bonds with the proposed \$800,000.00 issue to be purchased by the United States Department of Agriculture, Rural Utilities Services (RUS) and the \$375,000.00 issue to be sold to the State of West Virginia Revolving Fund (SRF).
 - b. The revenue coverage required for the issuance of the refunding bonds will be the same as the SRF bonds; that is 115% of the projected future revenues.
3. The refunding bonds will be fully issued and the statutory lien in place within two (2) years of this commitment.
4. The refunding bonds will be "bank qualified" and the bank will be provided with qualification letters, lien priority letters, and tax exempt status letters.

Please have your bond counsel contact the Bank and provide a draft of your proposed bond ordinance as soon as possible.

Sincerely yours,


Gary R. Davis
Chairman & CEO

TOWN OF MIDDLEBOURNE
1998 SEWER RATE ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MIDDLEBOURNE,
WEST VIRGINIA:

1. Prior Ordinances--The provisions of any prior Ordinances of the Town are hereby repealed and replaced insofar as the matters herein addressed are addressed in such prior Ordinances. Insofar as any prior Ordinance provisions are not inconsistent or in conflict with the provisions herein said prior Ordinance provisions shall remain in full force and effect.

2. Sewer Rates--The following sewerage rates shall be effective as to all of the territory served by the Middlebourne Municipal Sewer System for all domestic, commercial and industrial users based upon the metered water consumption for each user:

(A) RATE

First 3,000 gallons used per month \$7.10 per 1,000 gallons
Next 3,000 gallons used per month \$4.35 per 1,000 gallons
Next 14,000 gallons used per month \$3.89 per 1,000 gallons
over 20,000 gallons used per month \$3.17 per 1,000 gallons

(B) MINIMUM CHARGE

No bill will be rendered for less than \$21.30 per month

(C) CHARGE FOR WATER TREATMENT PLANT

\$63.45 per month plus the charge of the metered backwash consumption through the metered rates.

(D) NON-METERED RATES

Residential, commercial and industrial service: \$27.83 per month
Public Authority Service: \$40.19 per month

(E) DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be amount shown. This delayed payment penalty is not interest and shall only be charged once for each bill where applicable.

(F) DISCONNECTION

If any bill is not paid within forty (40) days of date of bill, water service to the customer will be discontinued. Water service will not be restored until all past due water bills and sanitary sewerage bills have been paid in full and all accrued penalties plus a reconnection charge of \$50.00 for water and a like reconnection charge of \$50.00 for sewer have been paid.

(G) TAP-ON-FEE

Prior to completion of the currently proposed construction of improvements and extensions to the Sewer System the connection charge (tap fee) to be charged each new customer in advance shall be \$100. After completion of said construction the connection charge (tap fee) shall be \$250.00 or the actual cost of installation, including materials and labor, whichever is greater.

(H) MULTIPLE OCCUPANCY

On apartment buildings or other multiple occupancy buildings, house trailer (mobile homes) court or park, each family or business unit shall be required to pay not less than the minimum monthly charge herein established.

3. EFFECTIVE DATE

This Ordinance shall be effective upon the first regular meter reading date following passage of this Ordinance and the expiration of any period within which an appeal to the provisions therein may be brought or in the event of an appeal of this Ordinance the next regular meter reading date following final action by the West Virginia Public Service Commission on any such appeal.

4. SEVERABILITY

In the event any portion of this Ordinance should be declared by any Court of administrative body as illegal or unenforceable the remaining portions of such Ordinance which are otherwise valid will remain in full force and effect until and unless amended by the governing body of the Town of Middlebourne.

Passed First Reading: 5-11-98 David M. Smith Recorder
Passed Second Reading: 6-8-98 David M. Smith Recorder
Passed Third Reading and Passage: 6-22-98 Gayla Gasher

wf8: mid_s_or

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A,
\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND)
SERIES 1999B and
\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY)
SERIES 1999C

GENERAL CERTIFICATE

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. INCUMBENCY AND OFFICIAL NAME
7. LOAN AGREEMENT
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. RATES
12. TRUTH AND ACCURACY
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. PRIVATE USE OF FACILITIES
16. NO FEDERAL GUARANTY
17. IRS INFORMATION RETURN
18. CONFLICT OF INTEREST
19. CLEAN WATER ACT
20. COUNTERPARTS

We, the undersigned MAYOR and the undersigned ACTING RECORDER of THE TOWN OF MIDDLEBOURNE, Tyler County, West Virginia (the "Town"), and the undersigned ATTORNEY for said Town, hereby certify in connection with the Town of Middlebourne, West Virginia, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, in the aggregate principal amounts of \$800,000, \$375,000 and \$120,000, respectively, numbered AR-1, BR-1 and CR-1, dated the date hereof and bearing interest at the rates of four and

75/100 percent (4.75%) as to the Series 1999A Bonds, two percent (2%) plus a one percent (1%) administrative fee as to the Series 1999B Bonds, and five percent (5%) as to the Series 1999C Bonds, per annum (collectively, the "Bonds"), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as in the Ordinance enacted and adopted by the Council of the Town (the "Council") and effective on August 26, 1999 (the "Ordinance"), in the Letter of Conditions (the "Letter of Conditions") from the United States Department of Agriculture, Rural Utilities Service ("RUS") dated January 26, 1996, to the Town, as to the Series 1999A Bonds, in the Loan Agreement (the "Loan Agreement") entered into among the Town, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated August 11, 1999, as to the Series 1999B Bonds, and in the undated letter from the Union Bank of Tyler County (the "Bank") to the Town, as to the Series 1999C Bonds.

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bond; nor questioning the proceedings and authority by which the Council authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof, including, but not limited to the pledge of Net Revenues of the System for such payment; nor questioning the existence of the Town or the title of the members or officers of the Town, the Town Council or the Sanitary Board to their respective offices; nor questioning the construction of certain additions, betterments and improvements to the sewer system facilities of the Town (the "System"), which is being financed, in part, out of the proceeds of sale of the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable approvals and certificates required by law for the acquisition, construction and equipping of the Project, the operation of the System and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect including approval by the Public Service Commission of West Virginia. Competitive bids for construction of the Project have been solicited in accordance with West Virginia law.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Town or the System since the Town's receipt of the Letter of Conditions and the approval, execution and delivery by the Town of the Loan Agreement. There has been no adverse change in the financial condition of the Town or the System since the approval by the Authority and DEP of a loan to assist in the acquisition, construction and equipping of the Project.

5. **SIGNATURES:** The undersigned MAYOR and ACTING RECORDER are the duly elected, qualified and serving officers as indicated by the official titles opposite their signatures below, are duly authorized to execute and seal the Bonds for the Town, and on the date hereof have signed and sealed the Bonds for the Town. The seal appearing hereon and on the Bonds is the only official seal of the Town.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Town is "Town of Middlebourne", and it is a municipal corporation of the State of West Virginia in Tyler County of said State. The governing body of the Town is the Mayor, Recorder, Acting Recorder and its Council consisting of five (5) Council Members, whose names, terms and offices are as follows:

<u>Name</u>	<u>Date of Termination of Office</u>	<u>Office</u>
Gayla S. Fisher	June 30, 2001	Mayor
Beth Frum	June 30, 2001	Recorder
Janice Bonner	June 30, 2001	Council Member and Acting Recorder
Pam Farhatt	June 30, 2001	Council Member
Vera Henthorn	June 30, 2001	Council Member
Jeff McKinney	June 30, 2001	Council Member
Phil Yoho	June 30, 2001	Council Member

The duly appointed and acting Attorney for the Town is Gary Rymer, Middlebourne, West Virginia.

7. LOAN AGREEMENT: As of the date hereof, (i) representations of the Town contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof, (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Town has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which is necessary to be disclosed therein in order to make the statements and information contained therein not misleading; and (iv) the Town ratifies and reaffirms all the covenants made in the Loan Agreement as if they were specifically set forth herein.

8. LAND AND RIGHTS-OF-WAY: All land and all rights-of-way and easements necessary for the construction, operation and maintenance of this System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Town and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Town to pay for the same without jeopardizing the security of or payments on the Bond.

9. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Town in any way connected with the design, construction, acquisition and financing of the Project and the operation of the System were authorized or adopted at meetings of the Council duly called and held pursuant to all applicable statutes and the customary procedure of Council, and a quorum of duly appointed, qualified and acting members of the

Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

10. **INSURANCE:** The Town will maintain or, as appropriate, will require all contractors to maintain Workers' Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Letter of Conditions, the Loan Agreement and the Ordinance.

11. **RATES:** Based upon information submitted by the Engineers and an independent Certified Public Accountant, the rates and charges for the System which were duly adopted and became effective on June 22, 1998, and remain in full force and effect, will, so long as the Bonds are outstanding, provide Net Revenues sufficient to pay (a) the interest upon the 1999 Bonds on a parity basis, (b) the necessary fiscal agency charges, (c) the principal amount of the 1999 at or before their maturity, (d) a margin of safety or reserve for such Bonds and for the payment into the reserve accounts created on account of the Bonds, and (e) meet the requirements set forth in the Letter of Conditions and in the Loan Agreement.

12. **TRUTH AND ACCURACY:** As of the date hereof, Gayla S. Fisher, Mayor, and Beth Frum, Recorder, hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents have been repealed, rescinded, amended or otherwise modified.

13. **SPECIMEN BONDS:** Attached hereto as Exhibit A are specimens of the Series 1999A, Series 1999B and Series 1999C Bonds which, except as to execution and authentication, are identical in all respects with such Bonds this day delivered to RUS, to the Authority and to the Bank and being substantially in the form prescribed in the Ordinance.

14. **BOND PROCEEDS:** On the date hereof, the Issuer received \$800,000.00 from RUS, \$18,750.00 from the Authority and DEP, being a portion of the principal amount of the Series 1999B Bonds and more than a de minimis amount of the proceeds of the Series 1999B Bonds, and \$120,000 from the Bank to refund and defease the Sewer Revenue Bond, Series 1973. The balance of the principal amount of the Series 1999B Bonds will be advanced to the Town as construction of the Project progresses.

15. **PRIVATE USE OF FACILITIES:** The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than ten percent (10%) of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than ten percent (10%) of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the

payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

16. NO FEDERAL GUARANTY: The Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

17. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

18. CONFLICT OF INTEREST: No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinance, and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than five percent (5%) of the particular business enterprise or contract.

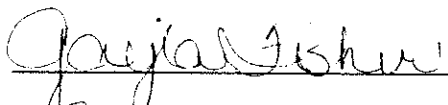
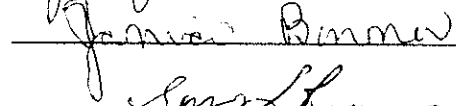

19. CLEAN WATER ACT: The project as described in the Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

20. COUNTERPARTS: This Certificate may be executed in counterpart, and such parts shall be deemed to be the Certificate.

WITNESS our signatures and the official seal of the Town of Middlebourne on the 27th day of August, 1999.

SIGNATURE

OFFICIAL TITLE

Mayor

Acting Recorder

Town Attorney

Exhibit A

(Specimen Bonds)
(See Tab No. 40)

THE TOWN OF MIDDLEBOURNE, WEST VIRGINIA

NON-ARBITRAGE CERTIFICATE

I, Gayla S. Fisher, Mayor of the Town of Middlebourne, West Virginia (the "Town"), being one of the officials of the Town duly charged with the responsibility for the issuance of \$375,000 aggregate principal amount of Sewer Revenue Bonds (State Revolving Fund), Series 1999B and \$120,000 aggregate principal amount of Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, of the Town, dated August 27, 1999 (collectively, the "Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations (the "Code"). I am one of the officers of the Town charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Town.

2. This certificate may be relied upon as the certificate of the Town.

3. The Town has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by holders of obligations of the Town or that there is any disqualification of the Town by the Internal Revenue Service because a certification made by the Town contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Town in existence on August 27, 1999, the date on which the Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Town set forth herein are reasonable.

5. In the Ordinance pursuant to which the Bonds are issued, the Town has covenanted to make no use of the proceeds of the Bonds which would cause the Bonds to be an "arbitrage bond" within the meaning of the Code.

6. The Bonds were sold on August 27, 1999, to the West Virginia Water Development Authority (the "Authority") and the Union Bank of Tyler County (the "Bank") for aggregate purchase prices of \$375,000 and \$120,000, respectively (100% of par) pursuant to the Loan Agreement among the Authority, the West Virginia Division of Environmental Protection and the Town dated August 11, 1999, and the undated letter from the Bank to the Town. At closing, \$18,750.00, being more than a de minimus amount, was advanced by the Authority to the Town with the balance to follow as construction of the project proceeds, and \$120,000 was paid by the Bank to the Town to refund certain existing indebtedness.

7. The Bonds is being delivered simultaneously with the delivery of this certificate and is issued for the purposes of (i) paying costs, not otherwise provided, of constructing certain additions, betterments and improvements to the sewer facilities of the Town (the "Project"); (ii) refunding those certain Sewer Revenue Bonds, Series 1973, dated January 1, 1973 (the "Prior Bonds"); and (iii) paying costs of issuance and other costs in connection therewith.

8. The total cost of the Project is estimated at \$3,014,300. Sources and uses of funds for the Project are as follows:

SOURCES

Grants	\$ 1,719,300
Series 1999A Bonds	800,000
Series 1999B Bonds	375,000
Series 1999C Bonds	<u>120,000</u>
Total Sources	<u>\$3,014,300</u>

USES

Acquisition, Construction and Equipping	
Project	\$2,872,800
Refunding of Prior Bonds	120,000
Costs of Issuance	<u>21,500</u>
Total Uses	<u>\$3,014,300</u>

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Bonds. Except for the proceeds of the Bonds and as otherwise provided in the Ordinance, no other funds of the Town will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without appropriate action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

9. Pursuant to Article IV of the Ordinance, the following special funds or accounts have been created or continued with and shall be held by the Depository Bank or the Commission:

- (1) Revenue Fund or System Revenue Fund;
- (2) Operation and Maintenance Fund;
- (3) Renewal and Replacement Fund;
- (4) Project Construction Accounts;
- (5) Refunding Fund; and
- (6) Series 1999A, 1999B and 1999C Bonds Sinking Funds;
 - (a) Within the Series 1999A, 1999B and 1999C Bonds Sinking Funds, the Series 1999A, 1999B and 1999C Bonds Reserve Accounts.

10. Pursuant to Article V of the Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Bond proceeds in the amount of \$0 will be deposited in the Series 1999 Bonds Sinking Funds and used to pay interest on the Bonds.

(2) Bond proceeds in the amount of \$0 will be deposited in the Series 1999 Bonds Reserve Accounts.

(3) Series 1999C Bond proceeds in the amount of \$120,000 will be deposited in the Refunding Fund and delivered to the Municipal Bond Commission in the amount necessary to defease the Prior Bonds.

(4) The balance of the proceeds of the Bonds will be advanced from time to time for deposit in the Project Construction Accounts and applied solely to payment of Costs of the Project including costs of issuance of the Bonds and related costs.

11. Moneys held in the Series 1999 Bonds Sinking Funds will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of construction of the Project. All investment earnings on moneys in the Series 1999 Bonds Sinking Funds will be annually withdrawn therefrom and deposited into the Project Construction Accounts until completion of the Project, and thereafter will be deposited, not less than once each year, in the System Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment, if any, due on the Bonds, and then to the next ensuing principal payment due thereon.

12. Except for the Series 1999 Bonds Sinking Funds and the Series 1999 Bonds Reserve Accounts, there are no other funds or accounts established or held by the Town which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for Bonds, and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds, if the Town encounters financial difficulties. The Town does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire, directly or indirectly, securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Bonds, have been or will be pledged to payment of the Bonds. Less than ten percent (10%) of the proceeds of the Bonds will be deposited in the Series 1999 Bonds Reserve Accounts or any other reserve or replacement fund. Any amounts deposited in the Reserve Accounts from time to time by the Town will not exceed the maximum annual principal and interest on the Bonds and will not exceed one hundred twenty five percent (125%) of average annual principal and interest on the Bonds. Amounts in the Reserve Accounts, not to exceed ten percent (10%) of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Reserve Accounts is required by RUS, the Authority and the Bank, is vital to their purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds.

13. The Town has entered or will, within thirty (30) days following delivery of the Bonds, enter into contracts for the construction of the Project, and the amount to be expended

pursuant to such contract exceeds or will exceed the lesser of two and one half percent (2 1/2%) of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000. The construction of the Project will proceed with due diligence to completion and all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project. The construction of the Project is expected to be completed within nine (9) months.

14. The Town will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to RUS and the Bank.

15. Any money deposited in the Series 1999 Bonds Sinking Funds for payment of the principal and interest on the Bonds (other than the Series 1999 Bonds Reserve Accounts therein) will be spent within a 13-month period beginning on the date of receipt and any moneys received from the investment of amounts held in the Series 1999 Bonds Sinking Funds (other than in the Series 1999 Bonds Reserve Account, therein) will be spent within a 1-year period beginning the date of receipt.

16. All the proceeds of the Bonds which are to be used for the payment of costs of the Project will be expended for such purposes within two (2) years.

17. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

18. All property financed with the proceeds of the Bonds will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

19. The Town shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

20. No more than ten percent (10%) of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than five percent (5%) of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

21. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

22. The Town shall use the proceeds of the Bonds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Town.

23. The Town shall not permit at any time or times any of the proceeds of the Bonds, or any other funds of the Town, to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as a "private activity bonds" within the meaning of the Code. The Town

will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure that interest on the Bonds is excludable from gross income for federal income tax purposes.

24. The Bonds, in whole or in part, will not be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code.

25. The Town has general taxing powers to finance operations of or facilities of the nature of the Project, and the Town and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year in which the Bonds are to be issued and has issued no other tax-exempt obligations during the current calendar year (or if the Town has issued tax-exempt obligations, the total of all Bonds issued will be less than the \$5,000,000) and expects to meet the small issuer exception to rebate.

26. The Town has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the Bonds.

27. The Town shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code. The yield on the Series 1999B and 1999C Bonds is 2.00749% and 5.00011%, respectively.

28. The Town has either (a) funded the Reserve Accounts at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Reserve Accounts which will be funded with equal payments on a monthly basis over a ten (10) year period until such Reserve Accounts holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Reserve Accounts and the Sinking Funds (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

29. The Town shall submit to RUS within thirty (30) days following the end of the Town's Bond year a certified copy of its rebate calculation, or if the Town qualifies for the small governmental issuer exception to rebate, then the Town shall submit to RUS a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bonds year which would make the Bonds subject to rebate.

30. The Town expects that no part of the Project financed by the Bonds will be sold or otherwise disposed of prior to the last maturity date of the Bonds.

31. The Town covenants and agrees to comply with the rebate requirements of the Code, if not exempted therefrom, and with all other requirements of the Code necessary, proper or

desirable to maintain the tax-exempt status of the Bonds.

32. Goodwin & Goodwin, LLP is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

33. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 27th day of August, 1999.

TOWN OF MIDDLEBOURNE,
WEST VIRGINIA

By: Gayla Fisher
Mayor

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A and
\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND)
SERIES 1999B

CERTIFICATE OF CONSULTING ENGINEER

I, Manning H. Frymier, Registered Professional Engineer, West Virginia License No. 8497 of CERRONE & ASSOCIATES, INC. Consulting Engineers, Wheeling, West Virginia, hereby certify that my firm is engineer for the acquisition, construction and equipping of certain additions, betterments and improvements to the sewer system (herein called the "Project") of the Town of Middlebourne (the "Issuer"), located in Tyler County, West Virginia, a portion of which cost is being financed by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Ordinance enacted and adopted by the Town Council of the Issuer and effective on August 26, 1999 (the "Ordinance"), and, as to the Series 1999B Bonds, the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated August 11, 1999.

1. The Bonds are being issued for the purpose of financing a portion of the costs of the Project.

2. The undersigned hereby certifies that to the best of his knowledge after due inquiry (i) the Project will be constructed in accordance with approved plans and specifications which have been prepared by my firm as described in and in accordance with the application submitted to the Authority requesting the Authority to purchase the Series 1999B Bonds (the "Application") and has been approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it will be constructed and will have an estimated useful life of at least forty (40) years, (iii) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction and operation of the System, (iv) the rates and charges for the System as adopted by the Town Council of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (v) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction of the Project as set forth in the Application, and (vi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 27th day of August, 1999.

CERRONE & ASSOCIATES, INC.

By: Manning J. McNeil
President

West Virginia License No. 8497

[SEAL]

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY:

TOWN OF MIDDLEBOURNE

PROJECT DESCRIPTION:

Sewer System Construction

FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

		<u>Total</u>	<u>SRF</u> <u>Loan</u>	<u>RUS</u> <u>Grant</u>	<u>RUS</u> <u>Loan</u>	<u>SCBG</u> <u>Grant</u>	<u>EPA</u> <u>Advance</u>
A. Cost of Project							
1. Construction (Based on Actual Bids)	2,133,684						
Construction Contingency	106,716						
Subtotal		2,240,400	142,674	521,700	656,626	919,400	0
2. Technical Services							
Planning Fee	42,500						
Design Fee	145,000						
Addendum No. 2 - Design Changes	7,000						
Addendum No. 3 - Changes for RAWs	2,226						
Services During Construction	40,000						
Resident Project Representation	125,000						
Constr. Stakeout & Record Drawings	18,000						
Operation & Maintenance Manual	10,000						
Startup & Warranty	15,000						
SSES	20,000						
Subtotal		424,728	232,326	0	0	185,000	27,400
3. Legal & Fiscal		25,000	0	11,100	13,900	0	0
4. Administrative & Archaeology		35,000	0	0	0	35,000	0
5. Sites and Other Lands		12,000	0	5,500	6,500	0	0
6. Fac. Plan/Design or Other Loan		0	0	0	0	0	0
Repayment - (Principal & Interest)		80,000	0	0	80,000	0	0
7. Interim Financing Costs		62,174	0	27,600	34,574	0	0
8. Contingency		2,879,300	375,000	565,900	791,600	1,119,400	27,400
9. Total of Lines 1 through 8							
B. Sources of Funds							
10. Federal Grants:							
EPA Design Advance		27,400	0	0	0	0	0
11. State Grants:							
Small Cities Block Grant (Original)		375,000	0	0	0	0	0
Small Cities Block Grant (Subsequent)		744,400	0	0	0	0	0
12. Other Grants RUS Grant		572,500	0	0	0	0	0
13. Any Other Source: RUS Loan		800,000	0	0	0	0	0
14. Total of Lines 10 Through 13		2,519,300	0	0	0	0	0
15. Net Proceeds Required from Bond Issue (Line 9 minus Line 14)		360,000	375,000	565,900	791,600	1,119,400	27,400
C. Cost of Financing							
16. Capitalized Interest		0	0				
17. Funded Reserve Account		0	0				
18. Other Costs							
Bond Counsel	15,000		0	6,600	8,400	0	0
Registrar Fee	0		0	0	0	0	0
19. Total Cost of Financing (Lines 16 through 18)		15,000	0	6,600	8,400	0	0
20. Size of Bond Issues (Line 15 plus Line 19)		375,000	375,000	572,500	800,000	1,119,400	27,400

Town of Middlebourne

Cerrone & Associates, Inc.

Signature of Applicant

Date:

Manninghymur

8/27/99

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A,
\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B and
\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

CERTIFIED PUBLIC ACCOUNTANT'S CERTIFICATE

I, Samuel J. Anthony, a Certified Public Accountant, of Anthony & Associates, Wheeling, West Virginia, License No. 380, Wheeling, West Virginia, have reviewed the sewer service rates which were enacted by the Town of Middlebourne (the "Town"), pursuant to a Rate Ordinance adopted by the Town on June 22, 1998 (the "Rate Ordinance"). It is my opinion that the schedule of rates set forth in the Rate Ordinance are adequate to pay operation and maintenance expenses of the System when fully implemented, as defined in the 1999 Bond Ordinance, hereinafter described, to pay the principal of and interest on the Series 1999A and Series 1999B Sewer Revenue Bonds and on the Series 1999C Sewer Revenue Refunding Bonds, as defined in the 1999 Bond Ordinance, to meet the one hundred fifteen percent (115%) debt service coverage requirement of the Series 1999A, Series 1999B and Series 1999C Bonds and the 1999 Bond Ordinance enacted by the Town Council (the "Council") of the Town and effective on August 26, 1999 (the "1999 Bond Ordinance"), and are sufficient to comply with the provisions of the Loan Agreement entered into among the Town, the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection dated August 11, 1999.

WITNESS my signature as of this 26th day of August 1999.



Certified Public Accountant

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND)
SERIES 1999B and

\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY)
SERIES 1999C

CERTIFICATE OF RECORDER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, Janice Bonner, the duly appointed Acting Recorder of the Town of Middlebourne, West Virginia (the "Town"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the \$800,000 Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, \$375,000 Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and \$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C (collectively, the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Town and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Order Creating the Town.
2. Ordinance Creating Sanitary Board.
3. Minutes of the June 6, 1979 meeting of Council wherein the Ordinance Creating the Sanitary Board was adopted.
4. Oaths of Office of the Mayor, Recorder, Members of Council and Members of Sanitary Board.
5. Rate Ordinance adopted on June 22, 1998.
6. Minutes of the meetings of Council wherein the Rate Ordinance was considered and approved on first and second readings and adopted after a public hearing.

7. Affidavit of publication of the abstract and notice of public hearing on the Rate Ordinance published in the Wheeling Intelligencer.

8. Bond Ordinance (the "Ordinance") enacted on August 26, 1999.

9. Minutes of the August 5 and August 12, 1999, meetings of Council wherein the Ordinance was considered and approved on first and second readings, respectively, and minutes of the August 26, 1999, public hearing at which the Ordinance was considered.

10. Affidavit of publication of the abstract and notice of public hearing on the Ordinance published in the Wheeling Intelligencer and the Tyler Star News.

11. Loan Agreement dated August 11, 1999.


12. Letter of Conditions dated January 26, 1996, as amended.

13. Undated loan commitment letter from Union Bank of Tyler County.

14. Grant letters or agreements.

WITNESS my signature and the official seal of the Town of Middlebourne, West Virginia as of the 27th day of August, 1999.

(SEAL)



Acting Recorder,
Town of Middlebourne



DIVISION OF ENVIRONMENTAL PROTECTION

CECIL H. UNDERWOOD
GOVERNOR

1201 Greenbrier Street
Charleston, WV 25311-1088

JOHN E. CAFFREY
DIRECTOR

October 26, 1998

Honorable Gayla Fisher
Mayor, Town of Middlebourne
100 Main Street
Middlebourne, WV 26149

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0024554
Modification No. 1

Dear Mayor Fisher:

This letter serves as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0024554 issued the 22nd day of September 1994.

After reviewing your permit and your application for Modification No. WV0024554-B dated the 3rd day of April 1998, the above referenced permit is hereby modified to upgrade and expand the existing sewage treatment facility and includes the installation, acquisition, construction, operation and maintenance of a new bar screen, grit chamber, two (2) 44,000 gallon clarifiers, two (2) rotor aerators, a 22,440 gallon aerated sludge holding tank, two (2) new drying beds, an ultraviolet (UV) light disinfection unit, cascade post aeration, a continuous effluent flow meter, and other necessary appurtenances. This upgrade shall replace the existing clarifier, chlorine contact tank, and single rotor aerator. The treatment plant lift station shall be rehabilitated with the installation of two (2) 10 HP submersible pumps. Additionally, the sewage collection system shall be rehabilitated by the replacement and repair of various sewer lines and manholes, and the inspection and cleaning of 10,000 linear feet of existing sewer line.

Also, to acquire, construct, install, operate, and maintain a sewage collection system extension consisting of 3,970 linear feet of eight (8) inch gravity sewer line, 2,620 linear feet of six (6) inch gravity sewer line, four (4) grinder pump stations, a duplex lift station containing two (2) 2 HP pumps, 1,690 linear feet of two (2) inch force main, 720 linear feet of 1¼ inch force main, and other necessary appurtenances. This line extension will serve 61 new customers in the Bridgeway area.

The new system is designed to serve 2,250 persons or equivalents in the Town of Middlebourne and surrounding areas and discharge treated wastewater to the Middle Island Creek of the Ohio River.

The information submitted on and with Permit Modification Application No. WV0024554-B dated the 3rd day of April 1998 along with the plans and specifications approved by the Construction Assistance Branch on the 26th day of May 1998 is all hereby made terms and conditions of this Permit with like effect as if all such permit modification application information was set forth herein.

SEWAGE COLLECTION AND TREATMENT FACILITY UPGRADE, REHABILITATION, AND
EXTENSION TO BE CONSTRUCTED IN ACCORDANCE WITH:

Plans, Specifications, and Reports:

Date Approved: May 26, 1998
Prepared by: Cerrone & Associates, Inc.
401 Main Street
Wheeling, WV 26003

Title: Town of Middlebourne
Middlebourne, Tyler County, WV

The Town shall complete this sewage collection and treatment system and construction project and begin to meet final permit discharge limitations on or before one (1) year.

Find enclosed additional pages 3A of 14, 3B of 14, and 13A of 14; revised page 8 of 14; and additional Discharge Monitoring Reports. The additional pages and DMRs shall be incorporated into this permit. Also, the revised page shall replace the page currently found in your existing permit.

All other terms and conditions of the subject permit shall remain in effect and unchanged.

Very truly yours,

OFFICE OF WATER RESOURCES



Barbara S. Taylor
Chief

BST/rb

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of August, 1999, by and between THE TOWN OF MIDDLEBOURNE, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and the UNION BANK OF TYLER COUNTY, a state banking corporation, having its principal office in Middlebourne, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$375,000 aggregate principal amount of Sewer Revenue Bonds (State Revolving Fund), Series 1999B and \$120,000 aggregate principal amount of Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, in fully registered form (collectively, the "Bonds"), pursuant to an Ordinance enacted by the Issuer and effective on August 26, 1999 (the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for the appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of the Paying Agent and Registrar, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver the Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Paying Agent and Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, reasonable compensation for services rendered and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement the provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon sixty (60) days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Town of Middlebourne
Attention: Mayor
100 Main Street
Middlebourne, West Virginia 26149

REGISTRAR: Union Bank of Tyler County
Attention: Gary R. Davis
P.O. Box 145
Middlebourne, WV 26149

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance and instructions provided by the Issuer and the Purchaser thereof.

IN WITNESS WHEREOF, the TOWN OF MIDDLEBOURNE and the UNION BANK OF TYLER COUNTY have caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day, month and year first above-written.

THE TOWN OF MIDDLEBOURNE

By: Jayla Fisher
Mayor

UNION BANK OF TYLER COUNTY

By: Lucretia Davis
Chairman

Exhibit A

See Ordinance (Tab No. 4)

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A,

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B and


\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

ACCEPTANCE OF DUTIES AS DEPOSITORY BANK

Union Bank of Tyler County, a state banking corporation, at its office located in Middlebourne, Tyler County, West Virginia, hereby accepts appointment as Depository Bank in connection with an Ordinance of the Town of Middlebourne (the "Town") duly enacted by the Town Council of the Town (the "Council") and effective on August 26, 1999 (the "Ordinance"), authorizing issuance by the Town of its Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, Sewer Revenue Bonds (State Revolving Fund), Series 1999B, and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, dated August 27, 1999, in the aggregate principal amounts of \$800,000, \$375,000 and \$120,000, respectively, and agrees to perform all duties of Depository Bank in connection with the Project Construction Accounts and Refunding Fund, all as set forth in the Ordinance.

Witness my signature as of the 27th day of August, 1999.

UNION BANK OF TYLER COUNTY

By: 
Chairman

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B and

\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

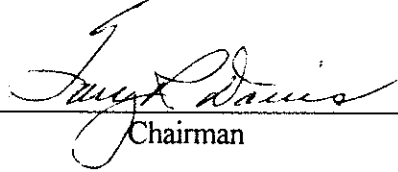
ACCEPTANCE OF DUTIES AS REGISTRAR

Union Bank of Tyler County, a state banking corporation, with its principal office located in Middlebourne, Tyler County, West Virginia, hereby accepts appointment as Registrar in connection with an Ordinance of the Town of Middlebourne (the "Town") duly enacted by the Town Council of the Town (the "Council") and effective on August 26, 1999 (the "Ordinance"), authorizing issuance of the Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, all dated August 27, 1999, in the aggregate principal amounts of \$375,000 and \$120,000, respectively, and agrees to perform all duties of Registrar as set forth in the Ordinance.

Witness my signature as of the 27th day of August, 1999.

UNION BANK OF TYLER COUNTY

By: _____


Chairman

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

August 27, 1999

Union Bank of Tyler County
P.O. Box 145
Middlebourne, WV 26149

Ladies and Gentlemen:

We herewith hand to you, duly executed, \$375,000 Town of Middlebourne, West Virginia, Sewer Revenue Bonds (State Revolving Fund), Series 1999B, and \$120,000 Town of Middlebourne, West Virginia, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C in the form of two bonds, numbered BR-1 and CR-1, respectively (collectively, the "Bonds"), of the Town of Middlebourne (the "Town"), authorized to be issued under and pursuant to the Ordinance, duly enacted the Council of the Town and effective on August 26, 1999.

You are hereby requested and authorized to authenticate and register the Bonds and to deliver the Bonds on behalf of the Town to the West Virginia Water Development Authority, and the Union Bank of Tyler County, the original purchasers thereof, upon receipt by the Town of \$18,750.00, being more than a de minimis portion of the proceeds of the Series 1999B Bonds, and \$120,000, respectively.

THE TOWN OF MIDDLEBOURNE

By: Jayla Sher
Mayor

(SEAL)

Attest:

Janice Burrell
Recorder

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A,

\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B and

\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

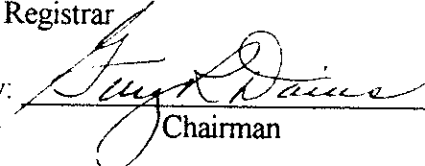
CERTIFICATE OF REGISTRATION OF BOND

I, Gary R. Davis, Chairman of the Union Bank of Tyler County, as Registrar (the "Registrar"), under a Registrar's Agreement between the Registrar and the Town of Middlebourne (the "Town") dated as of the date hereof, hereby certify that on the 27th day of August, 1999, the bonds of the City in the principal amounts of \$800,000, \$375,000 and \$120,000 designated "Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A", "Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B" and "Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C", and numbered AR-1, BR-1 and CR-1, respectively, dated as of the date hereof, were Registered as to principal and interest in the name of "The United States Department of Agriculture, Rural Utilities Service", "The West Virginia Water Development Authority", and "Union Bank of Tyler County", respectively, on the books of the Registrar kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature as of the 27th day of August, 1999.

UNION BANK OF TYLER COUNTY,
as Registrar

By:


Chairman

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(RURAL UTILITIES SERVICE),
SERIES 1999A,
\$375,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS
(STATE REVOLVING FUND),
SERIES 1999B and
\$120,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BONDS
(UNION BANK OF TYLER COUNTY),
SERIES 1999C

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned Gary D. Wilson, Rural Development Specialist for the United States Department of Agriculture, Rural Utilities Service ("RUS"), Daniel B. Yonkosky, Director of the West Virginia Water Development Authority ("WDA"), Gary R. Davis, Chairman of the Union Bank of Tyler County ("Bank"), and Gayla S. Fisher, Mayor of the Town of Middlebourne, Tyler County, West Virginia (the "Issuer"), hereby certify as follows:

1. On the 27th day of August, 1999, RUS, WDA and Bank received the entire original issue in aggregate principal amounts of \$800,000, \$375,000 and \$120,000 of the Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, respectively, of the Issuer (collectively, the "Bonds"). The Bonds, as so received on original issuance, are dated August 27, 1999, and are issued as Bond Numbers AR-1, BR-1 and CR-1, in the aggregate principal amounts of \$800,000, \$375,000 and \$120,000, respectively.

2. At the time of such receipt of the Bonds, the Bonds had been executed by Gayla S. Fisher, as Mayor of the Issuer, by her manual signature, and by Beth Frum, as Recorder of the Issuer, by her manual signature, and the official seal of the Issuer had been imprinted upon the Bonds.

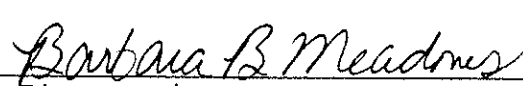
3. The Issuer has received and hereby acknowledges receipt from RUS, as the original purchaser of the Series 1999A Bonds, of \$40,000, being a portion of the proceeds of the Series 1999A Bonds, \$800,000, from WDA, as the original purchaser of the Series 1999B Bonds, of \$18,750.00, being a portion of the proceeds of the Series 1999B Bonds, and from the Bank, as the original purchaser of the Series 1999C Bonds, of \$120,000. The balance of the Series 1999A and Series 1999B Bonds proceeds will be advanced from time to time to pay costs of the Project as described in the Letter of Conditions and Loan Agreement, respectively.

IN WITNESS WHEREOF, this receipt has been signed and delivered on behalf of the United States Department of Agriculture, Rural Utilities Service, the West Virginia Water Development Authority, the Union Bank of Tyler County and the Town of Middlebourne, Tyler County, West Virginia, by their duly authorized representatives, as of the 27th day of August, 1999.

UNITED STATES DEPARTMENT OF AGRICULTURE,
Rural Utilities Service

By: 
Rural Development Specialist

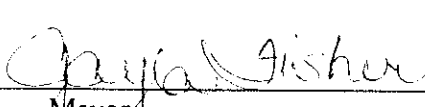
WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: 
~~Director~~ Secretary / Treasurer

UNION BANK OF TYLER COUNTY

By: 
Chairman

THE TOWN OF MIDDLEBOURNE

By: 
Mayor

Town of Middlebourne
Gayla S. Fisher, Mayor

100 Main St. ~ Middlebourne, WV 26149
Phone 758-4771 ~ Fax 758-2182 ~ Email dmsmith@rcvideo.com
Beth Frum, Recorder

August 6, 1999

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

NOTICE OF DELIVERY OF BOND

Pursuant to Paragraph 3.4 of the Loan Agreement among the West Virginia Water Development Authority, the West Virginia Division of Environmental Protection and the Town of Middlebourne, West Virginia, you are hereby notified that the Town can deliver its Sewer Revenue Bonds(State Revolving Fund), Series 1999B, on any date on or after August 27, 1999.

TOWN OF MIDDLEBOURNE

By: Gayla S. Fisher
Mayor

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

3. Maturity date (if any): **1/1/2013**

1. Debtor(s) (Last Name First) and address(es)

Town of Middlebourne
100 Main Street
Middlebourne, WV 26159

2. Secured Party(ies) and address(es)

Union Bank of Tyler County
P.O. Box 145
Middlebourne, WV 26149

For Filing Officer (Date, Time, Number, and Filing Office)

0524523

99 AUG 30 PM 2:52

FILED

4. This financing statement covers the following types (or items) of property:

Lien on revenues as provided by Bond Ordinance authorizing the issuance by Town of Middlebourne of its \$120,000 Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C, and as provided by Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended.

This Financing Statement is filed in connection with a public bond issue of the Town of Middlebourne. Pursuant to the provisions of Section 46-9-403(8) of the Code of West Virginia of 1931, as amended, no continuation statement need to be filed to continue this financing statement in effect throughout the term of the underlying bond issue.

5. Assignee(s) of Secured Party and Address(es)

This statement is filed without the debtor's signature to perfect a security interest in collateral. (check ☒ if so)

☐ already subject to a security interest in other jurisdiction when it was brought into this state.

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

Check ☒ if covered: ☐ Proceeds of Collateral are also covered. ☐ Products of Collateral are also covered. No. of additional Sheets presented:

Filed with:

Secretary of State of WV

Town of Middlebourne

By: 

Signature(s) of Debtor(s)

Mayor

Union Bank of Tyler County

By: 

Signature(s) of Secured Party(ies)

Chairman

STANDARD FORM - FORM UCC-1.

(2) FILING OFFICER COPY - NUMERICAL

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

3. Maturity date (if any): **8/27/2039**

1. Debtor(s) (Last Name First) and address(es)

Town of Middlebourne
100 Main Street
Middlebourne, WV 26159

2. Secured Party(ies) and address(es)

United States Department of
Agriculture
Rural Utilities Service
P.O. Box 303
Parkersburg, WV 26102

For Filing Officer (Date, Time, Number, and Filing Office)

0524522

99 AUG 30 PM 2:52

WV SEC. OF STATE
FILED

4. This financing statement covers the following types (or items) of property:

Lien on revenues as provided by Bond Ordinance authorizing the issuance by Town of Middlebourne of its \$800,000 Sewer Revenue Bonds (Rural Utilities Service), Series 1999A, and as provided by Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended.

This Financing Statement is filed in connection with a public bond issue of the Town of Middlebourne. Pursuant to the provisions of Section 46-9-403(8) of the Code of West Virginia of 1931, as amended, no continuation statements need to be filed to continue this financing statement in effect throughout the term of the underlying bond issue.

5. Assignee(s) of Secured Party and Address(es)

This statement is filed without the debtor's signature to perfect a security interest in collateral. (check ☒ if so)

☐ already subject to a security interest in another jurisdiction when it was brought into this state.

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

Check ☒ if covered. ☐ Proceeds of Collateral are also covered. ☐ Products of Collateral are also covered. No. of additional Sheets presented:

Filed with:

Secretary of State of WV

Town of Middlebourne

By:

Mayor

Signature(s) of Debtor(s)

USA, USDA, Rural Utilities Service

By:

Rural Dev. Specialist

Signature(s) of Secured Party(ies)

STANDARD FORM - FORM UCC-1.

(2) FILING OFFICER COPY - NUMERICAL

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

1. Debtor(s) (Last Name First) and address(es)

Town of Middlebourne
100 Main Street
Middlebourne, WV 26159

2. Secured Party(ies) and address(es)

**West Virginia Water Development
Authority**
180 Association Drive
Charleston, WV 25311-1571

3. Maturity date (if any): **9/1/2020**

For Filing Officer (Date, Time, Number,
and Filing Office)

0524521

99 AUG 30 PM 2:51

**WV SEC. OF STATE
FILED**

4. This financing statement covers the following types (or items) of property:

**Lien on revenues as provided by Bond Ordinance authorizing the
issuance by Town of Middlebourne of its \$375,000 Sewer Revenue
Bonds (State Revolving Fund), Series 1999B, and as provided by
Chapter 16, Article 13 of the Code of West Virginia of 1931,
as amended.**

**This Financing Statement is filed in connection with a public
bond issue of the Town of Middlebourne. Pursuant to the
provisions of Section 46-9-403(8) of the code of West Virginia of
1931, as amended, no continuation statements need to be filed to
continue this financing statement in effect throughout the term of the**

underlying bond issue.

This statement is filed without the debtor's signature to perfect a security interest in collateral. (check ☒ if so)

☐ already subject to a security interest in another jurisdiction when it was brought into this state.

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

Check ☒ if covered: ☐ Proceeds of Collateral are also covered. ☐ Products of Collateral are also covered. No. of additional Sheets presented:

Filed with:

Secretary of State of WV

Town of Middlebourne

By: *Cheryl Fisher*

Signature(s) of Debtor(s)

Mayor

West Virginia Water Development Authority

By: *Barbara B. Meadows*

Signature(s) of Secured Party(ies)

Director

STANDARD FORM - FORM UCC-1.

(2) FILING OFFICER COPY - NUMERICAL

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

Middlebourn
Sewer

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Director
IRS
Philadelphia, PA 19255

4a. Article Number

2424026840

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

SEP 02 1999

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

8. Addressee's Address (Only if requested and fee is paid)

24
PSC PHILA, PA
C

Thank you for using Return Receipt Service.

PS Form 3811, December 1994

102595-97-B-0179

Domestic Return Receipt

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Print your name, address, and ZIP Code in this box •

Bill Bragg
Goodwin & Goodwin, LLP
P.O. Box 2107
1500 One Valley Square
Charleston, WV 25328-2107

LAW OFFICES
GOODWIN & GOODWIN, LLP
P. O. BOX 2107
1500 ONE VALLEY SQUARE
CHARLESTON, WEST VIRGINIA 25328-2107
304/346-7000
TELECOPIER 304/344-9692

201 THIRD STREET
PARKERSBURG, WEST VIRGINIA 26101
304/485-2345

P O BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 26271
304/372-2651

REPLY TO
Charleston

August 30, 1999

Via Certified Mail-Return Receipt
Requested No.Z424026840
Director
Internal Revenue Service
Philadelphia, PA 19255

Re: \$375,000 Town of Middlebourne, Sewer Revenue Bonds
(State Revolving Fund), Series 1999B, and
\$120,000 Town of Middlebourne, Sewer Revenue Refunding
Bonds (Union Bank of Tyler County), Series 1999C

Gentlemen:

Enclosed are two (2) Form 8038-Gs to be filed on behalf of the Town of Middlebourne, Tyler County, West Virginia, which provide the information required by Section 149(e) of the Internal Revenue Code of 1986, as amended. We have also enclosed file copies to be returned to our office (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope.

Sincerely yours,

W K Bragg, Jr.
William K. Bragg, Jr.

WKB/bas
Enclosures

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)

► See separate instructions.

OMB No. 1545-0720

Caution: Use Form 8038-GC if the issue price is under \$100,000.

Part I Reporting Authority

If Amended Return, check here ►

1 Issuer's name Town of Middlebourne (West Virginia)	2 Issuer's employer identification number 55 6005253	
3 Number and street (or P.O. box if mail is not delivered to street address) 100 Main Street	Room/suite	4 Report number G/1999-1
5 City, town, or post office, state, and ZIP code Middlebourne, WV 26149	6 Date of issue 8/27/99	
7 Name of issue Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C	8 CUSIP number N/A	
9 Name and title of officer or legal representative whom the IRS may call for more information W.K. Bragg, Jr., Bond Counsel	10 Telephone number of officer or legal representative (304) 346-7000	

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)	15 120,000
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe ►	18
19 If obligations are TANs or RANs, check box ► <input type="checkbox"/> If obligations are BANs, check box ► <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box ► <input type="checkbox"/>	

Part III Description of Obligations. (Complete for the entire issue for which this form is being filed.)

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	1/1/2013	\$ 120,000	\$ Par	7.678 years	5.00011 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22
23 Issue price of entire issue (enter amount from line 21, column (b))	23 120,000
24 Proceeds used for bond issuance costs (including underwriters' discount)	24 6,500
25 Proceeds used for credit enhancement	25
26 Proceeds allocated to reasonably required reserve or replacement fund	26
27 Proceeds used to currently refund prior issues	27
28 Proceeds used to advance refund prior issues	28
29 Total (add lines 24 through 28)	29 6,500
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30 113,500

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

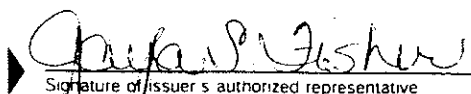
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	years
33 Enter the last date on which the refunded bonds will be called	8/27/99
34 Enter the date(s) the refunded bonds were issued	10/3/73

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a
b Enter the final maturity date of the guaranteed investment contract	
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► <input type="checkbox"/> and enter the name of the issuer ► and the date of the issue ►	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box	► <input checked="" type="checkbox"/>
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box	► <input type="checkbox"/>
40 If the issuer has identified a hedge, check box	► <input type="checkbox"/>

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please
Sign
Here


Signature of issuer's authorized representative

8/27/99
Date

Gayla S. Fisher, Mayor
Type or print name and title

Form **8038-G**

(Rev. May 1999)

Department of the Treasury
Internal Revenue Service**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: Use Form 8038-GC if the issue price is under \$100,000.

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ►

1 Issuer's name Town of Middlebourne (West Virginia)	2 Issuer's employer identification number 55 6005253
3 Number and street (or P.O. box if mail is not delivered to street address) 100 Main Street	Room/suite
4 Report number 1999 2	
5 City, town, or post office, state, and ZIP code Middlebourne, WV 26149	6 Date of issue 8/27/99
7 Name of issue Sewer Revenue Bonds (State Revolving Fund), Series 1999B	8 CUSIP number N/A
9 Name and title of officer or legal representative whom the IRS may call for more information W. K. Bragg, Jr., Bond Counsel	10 Telephone number of officer or legal representative (304) 346-7000

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)	15 375,000
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe ►	18
19 If obligations are TANs or RANs, check box ► <input type="checkbox"/> If obligations are BANs, check box ► <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box ► <input type="checkbox"/>	

Part III Description of Obligations. (Complete for the entire issue for which this form is being filed.)

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	9/1/2020	\$ 375,000	\$ Par	11.799 years	2.00749 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22
23 Issue price of entire issue (enter amount from line 21, column (b))	23 375,000
24 Proceeds used for bond issuance costs (including underwriters' discount)	24 7,500
25 Proceeds used for credit enhancement	25
26 Proceeds allocated to reasonably required reserve or replacement fund	26
27 Proceeds used to currently refund prior issues	27
28 Proceeds used to advance refund prior issues	28
29 Total (add lines 24 through 28)	29 7,500
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30 367,500

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

N/A

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	►	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	►	years
33 Enter the last date on which the refunded bonds will be called	►	
34 Enter the date(s) the refunded bonds were issued	►	

N/A

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a
b Enter the final maturity date of the guaranteed investment contract ►	
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► <input type="checkbox"/> and enter the name of the issuer ► and the date of the issue ►	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box ► <input type="checkbox"/>	
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ► <input type="checkbox"/>	
40 If the issuer has identified a hedge, check box ► <input type="checkbox"/>	

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please
Sign
Here


Signature of issuer's authorized representative

8/27/99

Date

Gayla S. Fisher, Mayor

Type or print name and title

For Paperwork Reduction Act Notice, see page 2 of the instructions.

Cat. No. 63773S

Form 8038-G (Rev. 5-99)

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304/485-2345

P. O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 25271
304/372-2651

REPLY TO:

Charleston

August 27, 1999

United States of America
United States Department of Agriculture,
Rural Utilities Service
P.O. Box 303
Parkersburg, WV 26102

Re: \$800,000 Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service),
Series 1999A

Gentlemen:

We are bond counsel to the Town of Middlebourne, West Virginia (the "Town"), a municipal corporation located in Tyler County, West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the issuance of the Letter of Conditions dated January 26, 1999, including all schedules and exhibits attached thereto (the "Letter of Conditions"), from the United States Department of Agriculture, Rural Utilities Service ("RUS") to the Town and (ii) the issuance of \$800,000 in aggregate principal amount of Sewer Revenue Bonds (Rural Utilities Service), Series 1999A of the Town, dated August 27, 1999 (the "Series 1999A Bonds"), to be purchased by RUS in accordance with the provisions of the Letter of Conditions. The Series 1999A Bonds are in the principal amount of \$800,000 and are issued in the form of one bond registered as to principal and interest to the United States of America.

Interest on the Bonds shall be paid on the unpaid principal balance of the Series 1999A Bonds at four and 75/100 percent (4.75%) per annum for the first twenty-four (24) months of the term. Principal and interest on the Series 1999A Bonds is payable in monthly installments of \$3,800.00 commencing August 27, 2001, as set forth on the "Debt Service Schedule" attached as Exhibit B to the bond. The final installment of principal and interest on the Series 1999A Bonds shall be paid at the end

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of thirty-eight (38) years from the date principal first becomes due and payable on the Series 1999A Bonds.

The Series 1999A Bonds are issued for the purpose of financing a portion of the costs of constructing certain additions, betterments and improvements for a new sewer system, and paying certain issuance and other costs in connection therewith (the "Project").

We have also examined the applicable provisions of Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended (the "Act"), and the Series 1999A Bonds have been authorized by a Bond Ordinance duly enacted by the City Council of the Town ("Council") effective on August 26, 1999 (the "Ordinance"), pursuant to and under which Act and Ordinance the Series 1999A Bonds are authorized and issued, and the Letter of Conditions has been undertaken. The Series 1999A Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance.

In rendering this opinion, we have relied, in part, upon the opinion of Gary Rymer, as the Town's Counsel, for the proper enactment of the Bond Ordinance and the Rate Ordinance, sewer rates, matters related to the valid existence of the Town and other issues.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Letter of Conditions has been duly accepted by and on behalf of the Town.
2. The Town is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to construct the Project and to operate and maintain the System referred to in the Ordinance and to issue and sell the Series 1999A Bonds, all under the Act and other applicable provisions of law. The Town has legally and validly created the Sanitary Board and has taken all legal action necessary to operate a sewer system.
3. The Town has legally and effectively enacted the Ordinance and has satisfied all other necessary requirements in connection with the issuance and sale of the Series 1999A Bonds.
4. The Series 1999A Bonds are a valid and legally enforceable special obligation of the Town, payable from the Net Revenues of the System referred to in the Ordinance and secured by a parity lien on and pledge of the net revenues of said System, all in accordance with the terms of the Series 1999A Bonds and the Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C (the Series 1999A, 1999B and 1999C Bonds collectively referred to as the "Bonds"), the Ordinance and the Rate Ordinance adopted on June 22, 1998, and have been duly issued and delivered to RUS. The Town has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Ordinance. The Town has certified, and an independent certified public accountant has verified, that the rates and charges generated by the Rate Ordinance are sufficient to pay the principal of and interest on the Bonds, when due. The Ordinance requires that such schedule of rates and charges be changed and readjusted whenever necessary so that the aggregate of such rates and charges will be sufficient for such purposes.

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5. Under existing statutes and court decisions, as presently written and applied, interest on the Series 1999A Bonds is excludable from the gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and such interest will not be treated as a preference item for purposes of the alternative minimum tax imposed under the Code with respect to individuals and corporations. Under the Code, however, such interest is included in the adjusted current earnings of a corporation for purposes of computing the alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the Town comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series 1999A Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Town has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the interest on the Series 1999A Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 1999A Bonds. We express no opinion herein regarding other tax consequences arising with respect to the Series 1999A Bonds.

6. Under the Act, as presently written and applied, the Series 1999A Bonds and the income thereon are exempt from taxation by the State of West Virginia pursuant to the provisions of Section 16-13-22f of the Code of West Virginia of 1931, as amended.

No opinion is given herein as to the effect upon enforceability of the Series 1999A Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined an executed and authenticated Bond numbered AR-1, and in our opinion, the form of the Series 1999A Bonds and its execution and authentication are regular and proper.

Respectfully submitted,

Goodwin + Goodwin, LLP

GOODWIN & GOODWIN, LLP

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304/485-2345

P. O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 25271
304/372-2851

REPLY TO

Charleston

August 27, 1999

West Virginia Water Development
Authority
180 Association Drive
Charleston, WV 25311-1571

Re: \$375,000 Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund),
Series 1999B

Gentlemen:

We are bond counsel to the Town of Middlebourne, West Virginia (the "Town"), a municipal corporation located in Tyler County, West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of the Loan Agreement, dated August 11, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), among the Town, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") and (ii) the issuance of \$375,000 in aggregate principal amount of Sewer Revenue Bonds (State Revolving Fund), Series 1999B of the Town, dated August 27, 1999 (the "Series 1999B Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Series 1999B Bonds are in the principal amount of \$375,000 and are issued in the form of one bond registered as to principal and interest to the Authority.

Interest on the Series 1999B Bonds shall be paid on the unpaid principal balance of the Series 1999B Bonds at two percent (2%) per annum plus an annual administrative fee at one percent (1%) per annum. Principal on the Bonds is payable in quarterly installments commencing December 1, 2000, and thereafter in quarterly installments on each March 1, June 1, September 1 and December 1, as set forth on the "Debt Service Schedule" attached as Schedule Y to the Loan Agreement. The final

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installment of principal and interest on the Series 1999B Bonds shall be paid at the end of twenty (20) years from the date interest begins to accrue on the Series 1999B Bonds.

The Series 1999B Bonds are issued for the purpose of financing a portion of the costs of constructing certain additions, betterments and improvements for a new sewer system, and paying certain issuance and other costs in connection therewith (the "Project").

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia of 1931, as amended (the "Act"), and the Series 1999B Bonds have been authorized by a Bond Ordinance duly enacted by the City Council of the Town ("Council") effective on August 26, 1999 (the "Ordinance"), pursuant to and under which Act and Ordinance the Series 1999B Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Series 1999B Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the Loan Agreement.

In rendering this opinion, we have relied, in part, upon the opinion of Gary Rymer, as the Town's Counsel, for the proper enactment of the Rate Ordinance, sewer rates, matters related to the valid existence of the Town and other issues.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly authorized by and executed on behalf of the Town and is a valid and binding special obligation of the Town enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and DEP and cannot be amended so as to affect adversely the rights of the Authority or DEP or diminish the obligations of the Town without the consent of the Authority and DEP.
3. The Town is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to construct the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Series 1999B Bonds, all under the Act and other applicable provisions of law. The Town has legally and validly created the Sanitary Board and has taken all legal action necessary to operate a sewer system.
4. The Town has legally and effectively enacted the Ordinance and has satisfied all other necessary requirements in connection with the issuance and sale of the Series 1999B Bonds. The Ordinance contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
5. The Bonds are a valid and legally enforceable special obligation of the Town, payable from the Net Revenues of the System referred to in the Ordinance and secured by a parity lien on and pledge of the net revenues of said System, all in accordance with the terms of the Series 1999B Bonds and the Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C (the Series 1999A, 1999B and 1999C Bonds collectively referred to as the "Bonds"), the Ordinance and the

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Rate Ordinance adopted on June 22, 1998, and have been duly issued and delivered to the Authority. The Town has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Ordinance. The Town has certified, and an independent certified public accountant has verified, that the rates and charges generated by the Rate Ordinance are sufficient to pay the principal of and interest on the Bonds, when due. The Ordinance requires that such schedule of rates and charges be changed and readjusted whenever necessary so that the aggregate of such rates and charges will be sufficient for such purposes.

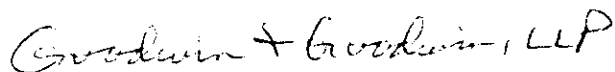
6. Under existing statutes and court decisions, as presently written and applied, interest on the Series 1999B Bonds is excludable from the gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and such interest will not be treated as a preference item for purposes of the alternative minimum tax imposed under the Code with respect to individuals and corporations. Under the Code, however, such interest is included in the adjusted current earnings of a corporation for purposes of computing the alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the Town comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series 1999B Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Town has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the interest on the Series 1999B Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 1999B Bonds. We express no opinion herein regarding other tax consequences arising with respect to the Series 1999B Bonds.

7. Under the Act, as presently written and applied, the Series 1999B Bonds and the income thereon are exempt from taxation by the State of West Virginia pursuant to the provisions of Section 16-13-22f of the Code of West Virginia of 1931, as amended.

No opinion is given herein as to the effect upon enforceability of the Series 1999B Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined an executed and authenticated Bond numbered BR-1, and in our opinion, the form of the Series 1999B Bonds and its execution and authentication are regular and proper.

Respectfully submitted,

A handwritten signature in cursive script that reads "Goodwin & Goodwin, LLP".

GOODWIN & GOODWIN, LLP

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RIPLEY, WEST VIRGINIA 25271
304/372-2651

REPLY TO

Charleston

August 27, 1999

Union Bank of Tyler County
P.O. Box 145
Middlebourne, WV 26149

Re: \$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C

Gentlemen:

We are bond counsel to the Town of Middlebourne, West Virginia (the "Town"), a municipal corporation located in Tyler County, West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) an undated loan commitment letter from the Union Bank of Tyler County (the "Bank") to the Town and (ii) the issuance of \$120,000 in aggregate principal amount of Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C of the Town, dated August 27, 1999 (the "Series 1999C Bonds"), to be purchased by the Bank in accordance with its loan commitment letter. The Series 1999C Bonds are in the principal amount of \$120,000 and are issued in the form of one bond registered as to principal and interest to the Union Bank of Tyler County.

Interest on the Bonds shall be paid on the unpaid principal balance of the Series 1999C Bonds at five percent (5.00%) per annum, and principal and interest on the Series 1999C Bonds is payable in semiannual installments commencing January 1, 2000, and maturing January 1, 2013, as set forth on the "Debt Service Schedule" attached as Exhibit B to the bond. The final installment of all outstanding principal and interest on the Series 1999C Bonds shall be paid on January 1, 2013.

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The Series 1999C Bonds are issued for the purpose of refinancing certain existing indebtedness and facilitating the Town's incurrence of new debt to pay a portion of the costs of constructing certain additions, betterments and improvements for a sewer system and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13 and Chapter 13, Article 2E of the Code of West Virginia of 1931, as amended (collectively, the "Act"), and the Series 1999C Bonds have been authorized by a Bond Ordinance duly enacted by the City Council of the Town ("Council") effective on August 26, 1999 (the "Ordinance"), pursuant to and under which Act and Ordinance the Series 1999C Bonds are authorized and issued. The Series 1999C Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance.

In rendering this opinion, we have relied, in part, upon the opinion of Gary Rymer, as the Town's Counsel, for the proper enactment of the Bond Ordinance and the Rate Ordinance, sewer rates, matters related to the valid existence of the Town and other issues.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Town is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to operate and maintain its sewer system and to issue and sell the Series 1999C Bonds, all under the Act and other applicable provisions of law. The Town has legally and validly created the Sanitary Board and has taken all legal action necessary to operate a sewer system.
2. The Town has legally and effectively enacted the Ordinance and has satisfied all other necessary requirements in connection with the issuance and sale of the Series 1999C Bonds.
3. The Series 1999C Bonds are a valid and legally enforceable special obligation of the Town, payable from the Net Revenues of the System referred to in the Ordinance and secured by a parity lien on and pledge of the net revenues of said System, all in accordance with the terms of the Series 1999C Bonds and the Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and the Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B (the Series 1999A, 1999B and 1999C Bonds collectively referred to as the "Bonds"), the Ordinance and the Rate Ordinance adopted on June 22, 1998, and have been duly issued and delivered to the Bank. The Town has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Ordinance. The Town has certified, and an independent certified public accountant has verified, that the rates and charges generated by the Rate Ordinance are sufficient to pay the principal of and interest on the Bonds, when due. The Ordinance requires that such schedule of rates and charges be changed and readjusted whenever necessary so that the aggregate of such rates and charges will be sufficient for such purposes.
4. Under existing statutes and court decisions, as presently written and applied, interest on the Series 1999C Bonds is excludable from the gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"),

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and such interest will not be treated as a preference item for purposes of the alternative minimum tax imposed under the Code with respect to individuals and corporations. Under the Code, however, such interest is included in the adjusted current earnings of a corporation for purposes of computing the alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the Town comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series 1999C Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Town has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the interest on the Series 1999C Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 1999C Bonds. We express no opinion herein regarding other tax consequences arising with respect to the Series 1999C Bonds.

5. Under the Act, as presently written and applied, the Series 1999C Bonds and the income thereon are exempt from taxation by the State of West Virginia pursuant to the provisions of Section 16-13-22f of the Code of West Virginia of 1931, as amended.

6. The Issuer has designated the Series 1999C Bonds as "qualified tax-exempt obligations" for purposes of the Code and has covenanted that it does not reasonably expect to issue, together with subordinate entities, more than \$10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 1999. Therefore, the Series 1999C Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, and the provisions of the Code which disallow all deductibility of interest expense incurred by financial institutions on debt incurred or continued to purchase or carry most tax-exempt obligations do not apply to the Series 1999C Bonds; accordingly, 80% of the interest expense of a financial institution incurred for the purpose of purchasing or carrying the Series 1999C Bonds is deductible for Federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Series 1999C Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined an executed and authenticated Bond numbered CR-1, and in our opinion, the form of the Series 1999C Bonds and its execution and authentication are regular and proper.

Respectfully submitted,

Goodwin & Goodwin, LLP

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80000 SERIES
10% P.C.W.



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REPLY TO:
Charleston

August 27, 1999

The Town of Middlebourne
100 Main Street
Middlebourne, West Virginia 26149

Re: \$375,000 Town of Middlebourne, Sewer Revenue Bonds
(State Revolving Fund), Series 1999B, and
\$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds
(Union Bank of Tyler County), Series 1999C

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance of the \$375,000 and \$120,000 in aggregate principal amounts of the Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C (collectively, the "Bonds"), issued by the Town of Middlebourne (the "Town"), a municipal corporation, and the Non-Arbitrage Certificate executed by Gayla S. Fisher, Mayor of the Town on this date.

We are of the opinion that the facts, estimates and circumstances set forth in the Non-Arbitrage Certificate are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") to support the conclusion that the Bonds are not an "arbitrage bond" as therein defined.

The Town has general taxing powers to finance operations of or facilities of the nature of the System, and the Town and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year in which the Bonds are to be issued and have issued no other tax-exempt obligations during the current calendar year (or if the Town has issued tax-exempt obligations, the total of all bonds issued will be less than the \$5,000,000). Consequently, interest earnings with respect to the Bonds in excess of the yield of the Bonds are not subject to the rebate

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obligations, the total of all bonds issued will be less than the \$5,000,000). Consequently, interest earnings with respect to the Bonds in excess of the yield of the Bonds are not subject to the rebate requirements of the Code.

No matters have come to our attention, which in our opinion make unreasonable or incorrect the representations made in such certification.

Please be advised that this opinion is subject to the condition that the Town comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the Bonds not be an "arbitrage bond." Failure to comply with certain of such requirements may cause the interest on the Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The Town has covenanted to comply with all such requirements.

Respectfully submitted,

Goodwin & Goodwin, LLP

Goodwin & Goodwin, LLP

GARY L. RYMER
ATTORNEY AT LAW
P.O. BOX 236
MIDDLEBOURNE, WEST VIRGINIA 26149
(304) 758-4448 or 1-800-499-4433

August 27, 1999

United States Department of Agriculture
Rural Utilities Service
P.O. Box 303
Parkersburg, WV 26102

Jackson & Kelly, PLLC
P.O. Box 553
Charleston, WV 25322

West Virginia Water Development
Authority
180 Association Drive
Charleston, WV 25311-1571

Goodwin & Goodwin, LLP
P.O. Box 2107
Charleston, WV 25328

Union Bank of Tyler County
P.O. Box 145
Middlebourne, WV 26149

Re: \$800,000 Town of Middlebourne, Sewer Revenue Bonds,
(Rural Utilities Service), Series 1999A,
\$375,000 Town of Middlebourne, Sewer Revenue Bonds,
(State Revolving Fund), Series 1999B and
\$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds
(Union Bank of Tyler County), Series 1999C

Ladies and Gentlemen:

I am counsel to the Town of Middlebourne, West Virginia (the "Town"). I have reviewed various documents relating to the above-captioned bonds of the Town (the "Bonds"), the Letter of Conditions dated January 26, 1996, from the United States Department of Agriculture, Rural Utilities Service to the Town, the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection and the Town, dated August 11, 1999, a commitment letter from the Union Bank of Tyler County to the Town, and an Ordinance duly enacted by the Council of the Town (the "Council") and effective on August 27, 1999 (the "Ordinance") and other documents relating to the Bonds. Terms used in this opinion and not otherwise defined herein shall have the same meanings as contained in the Loan Agreement and the Ordinance.

I am of the opinion that:

1. The Town is a duly organized and presently existing municipal corporation, with full power and authority to construct the Project and to operate and maintain the System referred to in the Letter of Conditions and the Loan Agreement and to issue and sell the Bonds, all under the Ordinance and other applicable provisions of law.

2. The Loan Agreement has been duly authorized, executed and delivered by the Town, and assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Town in accordance with its term.

3. The members of the Council were duly and properly elected or appointed and are thereby authorized to act on behalf of the Town.

4. The Ordinance has been duly enacted by the Council and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Ordinance, the Letter of Conditions and the Loan Agreement and the carrying out of the terms thereof do not and will not in any material respect conflict with or constitute on the part of the Town a breach of or default under any agreement or other instrument to which the Town is a party or any existing law, regulation, court order or consent decree to which the Town is subject.

6. The Town has received all necessary rights of way, permits, licenses, approvals and authorizations that are presently obtainable to construct and finance the Project including a letter from the West Virginia Infrastructure and Jobs Development Council and approval by the Public Service Commission of West Virginia.

7. The Town duly adopted a Rate Ordinance on June 22, 1998, which remains in full force and effect, whereby the rates and charges for use of the System were established to meet the operation and maintenance costs of the System and payment of the debt service on the Bonds on a parity basis. Under the terms of the Act, the Town has full authority to establish rates for the System and to pledge the revenues from said rates to the payment of the Bonds on a parity basis.

8. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the revenues.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,


Gary Rymer

U. S. DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
FINAL TITLE OPINION

LOAN APPLICANT TOWN OF MIDDLEBOURNE	ADDRESS OF PROPERTY COVERED BY THIS OPINION MIDDLEBOURNE, WEST VIRGINIA 26149	
APPLICANT FOR TITLE EXAMINATION TOWN OF MIDDLEBOURNE	COUNTY TYLER	STATE WV

- I. I have examined title to the property described in the security instrument described in paragraph II-B below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form FmHA 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land

already owned by the loan applicant in a subsequent loan case, to August 27, 1999, at _____ M. o'clock (including the time of filing the current security instrument).

- II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:

A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Town of Middlebourne WV

as _____
(Joint tenants, tenants by the entirety, etc., as required or permitted by FHA)

- B. The United States of America holds a valid First (Priority) Statutory lien on said property
(Priority) (Mortgage, etc.)
as required by the Farmers Home Administration, which lien was filed for record on NA, 19 _____,

at _____ M. o'clock and is recorded in _____
(Book, page, and office)

- C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Farmers Home Administration attached hereto or to my Preliminary Title Opinion.

- III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the County Supervisor at the time of loan closing):

- IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.

- V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the Farmers Home Administration, and I assume liability to each hereunder.

August 27, 1999

(Date)

Barry L. Ryan

(Attorney's signature)

Attachments.

P.O. Box 236
Middlebourne, WV 26149

(Address, include ZIP Code)

Town of Middlebourne
Gayla S. Fisher, Mayor

100 Main St. ~ Middlebourne WV 26149
Phone 758-4771 ~ Fax 758-2182 ~ Email dmsmith@rcvideo.com
Beth Frum, Recorder

August 4, 1999

Mr. Doug Gray
GMAC
650 Dresher Road
Horsham, PA 19044-8850

Dear Mr. Gray:

Please accept this letter as a notice of the Town of Middlebourne's intention to redeem its \$215,000 Sewer Revenue Bonds, Series 1973, Dated July 1, 1973. The series 1973 Bonds were issued under authority of a Bond Ordinance approved on April 16, 1973. As provided in the 1973 Ordinance, the Series 1973 Bonds may be redeemed prior to their stated maturities, without premium, at the option of the Town as a whole on any January 1 beginning January 1, 1985.

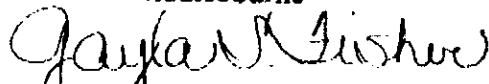
The 1973 Ordinance further provides that notice of such redemption shall be published at least once not less than thirty (30) nor more than sixty (60) days prior to the redemption date in a financial newspaper published in the City of New York, New York. In addition, notice of such redemption shall be sent by registered or certified mail to the holders of the Series 1973 Bonds.

Please accept this letter as a request to waive the requirement that the notice be published in a financial newspaper published in the City of New York. The Town proposes that sufficient funds be deposited with the West Virginia Bond Commission for redemption of the Series 1973 Bonds on August 27, 1999. Accordingly, the Municipal Bond Commission would transfer funds to GMAC on August 27, 1999, and certify that the Series 1973 Bonds have been defeased.

Please provide a new full loan satisfaction statement to replace the statement dated March 31, 1999. The new statement should be based upon an August 27, 1999, redemption date and should include a per diem rate.

Your favorable consideration of this request to waive the publication requirement and accept redemption on August 27, 1999, will be appreciated. Please indicate your acceptance of these terms by signing in the space provided below or by separate letter.

Respectfully submitted,
Town of Middlebourne


Gayla S. Fisher, Mayor

The publication requirement and redemption date specified in the 1973 Bond Ordinance authorizing the issuance of \$215,000 Town of Middlebourne, Sewer Revenue Bonds, Series 1973, are hereby waived by or on behalf of the holder of the Series 1973 Bonds as of this 4th. day of August, 1999.

(Bondholder)

By _____

Its _____

LAW OFFICES
GOODWIN & GOODWIN, LLP

P. O. BOX 2107
1500 ONE VALLEY SQUARE
CHARLESTON, WEST VIRGINIA 25328-2107
304/346-7000
TELECOPIER 304/344-9692

201 THIRD STREET
PARKERSBURG, WEST VIRGINIA 26101
304/485-2345

P. O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 26271
304/372-2651

REPLY TO
Charleston

August 27, 1999

Via Facsimile

Mr. R. Witter Hallan, Executive Director
West Virginia Municipal Bond Commission
812 Quarrier Street, Suite 300
Charleston, WV 25301

Re: \$120,000 Town of Middlebourne
Sewer Revenue Refunding Bonds
(Union Bank of Tyler County)
Series 1999C

Dear Witter:

As bond counsel for the Town of Middlebourne (the "Issuer"), I wish to advise you that on August 27, 1999 (the "Settlement Date"), the Issuer will deliver the above-captioned revenue refunding bonds (the "Series 1999C Bonds") to Union National Bank of Tyler County. Proceeds of the Series 1999C Bonds will be used to refund the Issuer's Sewer Revenue Bonds, Series 1973, dated October 3, 1973 (the "Prior Bonds"). The Prior Bonds are outstanding in the amount of \$126,856.24 as of August 27, 1999, plus a per diem amount of \$16.78 for a total due on Monday, August 30, 1999, of \$126,906.58.

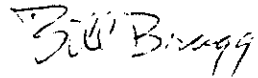
On the Settlement Date, the Issuer will deliver to the West Virginia Municipal Bond Commission (the "Bond Commission"), \$120,000.00 from proceeds of the Series 1999C Bonds. The Bond Commission should transfer \$11,731.38 from the Prior Bonds Debt Service Account and \$15,363.81 from the Prior Bonds Debt Service Reserve Account (total \$27,095.19). The transfer from the Prior Bonds Debt Service and Debt Service Reserve Accounts should be made on August 30, 1999. You are hereby authorized to apply \$126,906.58 to refund the Prior Bonds by wire to Bank One, Texas, NA. Any excess amounts should be wire transferred to the Issuer's Depository Bank, Union Bank of Tyler County in Middlebourne. Wire transfer instructions have been provided under separate cover.

GOODWIN & GOODWIN, LLP

Mr. R. Witter Hallan, Executive Director
August 27, 1999
Page 2

If you have any questions regarding the foregoing, please feel free to call me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Bill Bragg". The signature is written in a cursive, slightly slanted style.

William K. Bragg, Jr.

WKB/bas
Enclosure

cc: Gayla S. Fisher, Mayor
Gary L. Rymer, Esq.
Gary R. Davis, Union Bank of Tyler County

CERTIFICATE OF DEFEASANCE OF BONDS

I, R. Witter Hallan, Executive Director of the West Virginia Municipal Bond Commission (the "Commission"), hereby certify that on August 27, 1999, the Commission received proceeds sufficient to defease all remaining debt service on the \$215,000 Town of Middlebourne, West Virginia, Sewer Revenue Bonds, Series 1973, dated October 3, 1973 (the "Prior Bonds"), of which \$126,906.58 is the principal outstanding, accrued interest and miscellaneous expenses owed to August 30, 1999. The total amount received was \$120,000.00 which, together with \$27,095.19 already on deposit with the Commission in the Prior Bonds Debt Service and Debt Service Reserve Accounts, totals an amount necessary to defease the Prior Bonds.

Accordingly, the Commission certifies as follows:

- (1) The Prior Bonds issued by the Town of Middlebourne, West Virginia, on October 3, 1973, have been defeased; and
- (2) The obligations of the Town of Middlebourne under the Ordinance adopted April 16, 1973, have been satisfied in full.

Given under my hand this 30th day of August, 1999.

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By: 

Executive Director

August 27, 1999

\$120,000
Town of Middlebourne
Sewer Revenue Refunding Bonds
(Union Bank of Tyler County)
Series 1999C

Town of Middlebourne
100 Main Street
Middlebourne, WV 26149

Goodwin & Goodwin, LLP
P.O. Box 2107
Charleston, WV 25328

Ladies and Gentlemen:

In connection with the issuance of the above-captioned bonds (the "Bonds"), the undersigned hereby confirms that we are purchasing the entire \$120,000 principal amount of the Bonds, issued by the Town of Middlebourne (the "Issuer"), pursuant to an Ordinance enacted by the Issuer and effective on August 26, 1999 (the "Ordinance"). Capitalized terms used in the Ordinance and not otherwise defined herein shall have the same meanings when used herein as in the Ordinance, unless the context otherwise requires. In consideration of the issuance and delivery of the Bonds, and as an inducement thereto, the purchaser hereby makes the following representations and warranties:

1. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of corporate securities and municipal and other obligations, including, without limitation, tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by our purchase of the Bonds, and our net worth and available assets are such that we are able to bear the economic risk of our purchase of the Bonds. We are aware that the revenues of the Issuer's sewage system involve certain economic variables and risks that could adversely affect the security of our investment in the Bonds.

2. We have received and examined the Ordinance and have received and examined the form of this letter.

3. We understand that the entire principal of, premium (if any) and interest on the Bonds are payable by the Issuer solely from the revenues derived from, or in connection with, the operation of the Issuer's sewage system and the funds or property pledged therefor; that the Bonds are special and limited obligations of the Issuer and are not general obligations or secured by any obligation or pledge of any monies received or to be received from taxation by the Issuer, the State of West Virginia or any political subdivision or taxing district thereof; that the Bonds do not now and shall never constitute an indebtedness or constitute or give rise to a pecuniary liability or be a pledge of or charge against the property, faith and credit or taxing power, if any, of any such entity or entities; and that we have no right to have taxes levied by any taxing authority or any such aforementioned entity or entities for the payment of principal, premium, if any, and interest on the Bonds.

4. We understand that no official statement, offering statement, prospectus, offering circular or other statement containing material information with respect to the Issuer, the Bonds or the Issuer's sewage system is being issued or otherwise represented. We have with due diligence made our own inquiry and analysis, to the extent we have deemed necessary, with respect to the Issuer, the Bonds and the security therefor and other material factors affecting the security for and payment of the Bonds, and are relying solely on such inquiry and analysis in our purchase of the Bonds.

5. We are familiar with the operations of the Issuer's sewage system and acknowledge that, during the course of the transaction and prior to the sale of the Bonds, we have either been supplied with or have had access to information, including financial statements and financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals, including, but not limited to, Goodwin & Goodwin, LLP, as Bond counsel, and Gary L. Rymer, as Issuer's counsel, the Issuer, concerning the Issuer, the Issuer's sewage system, the Bonds and the security therefor so that, as a reasonable investor, we have been able to make our decision to purchase the Bonds. No such information requested by us has been denied to us. We acknowledge that neither the Issuer nor Goodwin & Goodwin, LLP and Gary L. Rymer have undertaken steps to ascertain the accuracy or completeness of any information furnished to us relating to the business, operations, financial condition or future prospects of the Issuer, and Goodwin & Goodwin, LLP and Gary L. Rymer have made no representations concerning the accuracy or completeness of any information supplied to us by or relating to the Issuer's sewage system.

6. Because of our experience in financial and business matters, we feel that we are qualified to make the inquiry and analysis described in paragraph 4 and to understand fully the documents and information described in paragraphs 2 and 5.

7. We understand that the Internal Revenue Code of 1986, as amended (the "Code"), prescribes satisfaction of several requirements in order that interest on the Bonds be and remain excluded from gross income for federal income tax purposes, some of which apply after issuance of the Bonds, and that noncompliance by the Issuer with certain of such requirements could cause interest on the Bonds to be included in gross income for federal income tax purposes and, thus, included in gross income for federal income tax purposes, retroactive to the date hereof. We also understand that under the Code, interest on obligations, such as the Bonds, is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations by Section 55 of the Code, but that a provision of the Code which is applicable to corporations (as defined for federal income tax

purposes) and which would impose an alternative minimum tax on a portion of the excess of adjusted current earnings, could subject part of the interest on the Bonds received by corporations to such corporate alternative minimum tax. Additionally, we understand that for tax years beginning after 1986 and before 1996, interest on the Bonds earned by some corporations could be subject to the environmental tax imposed by Section a of the Code and enacted by the Superfund Revenue Act of 1986, and that for taxable years beginning after 1986, interest on the Bonds earned by certain foreign corporations doing business in the United States could be subject to the branch profits tax imposed by the Code.

8. We understand that the Bonds are not being registered under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended, and are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) will not be listed on any stock or other securities exchange, (iii) will carry no rating from any rating service, and (iv) will not be readily marketable.

9. We are purchasing the Bonds for investment in our own account and do not currently intend to divide our interest with others or to resell or otherwise dispose of all or any part of the Bonds purchased by us.

10. We have satisfied ourselves that the Bonds are a lawful investment for us under all applicable laws.

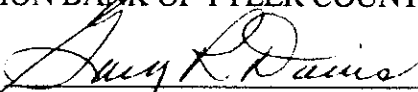
We have received the opinions of Goodwin & Goodwin, LLP and Gary L. Rymer delivered in connection with the Bonds. We have relied upon such opinions, and upon the advice of our legal counsel, as to the legal conclusions set forth in such opinions, subject to any limitations set forth therein.

We have had the opportunity to consult with and be advised by legal counsel as to the significance of this letter.

Very truly yours,

UNION BANK OF TYLER COUNTY

By:


President-
Chairman

TOWN OF MIDDLEBOURNE

\$235,000 Sewer Revenue Bonds,
Series 1973

BOND ORDINANCE

Table of Contents

<u>Subject</u>	<u>Page</u>
ARTICLE I - STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS	
Section 1.01. Authority for this Ordinance	1
Section 1.02. Findings and Determinations	1
Section 1.03. Ordinance to Constitute Contract	3
Section 1.04. Definitions	4
ARTICLE II - AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS	
Section 2.01. Authorization of 1973 Bonds	7
Section 2.02. Description of 1973 Bonds	7
Section 2.03. Execution of Bonds and Coupons	9
Section 2.04. Negotiability and Registration	10
Section 2.05. Bonds Mutilated, Destroyed, Stolen or Lost	10
Section 2.06. Bonds Secured by Pledge of Revenues	11
Section 2.07. Form of 1973 Bonds and Coupons	11
(Form of Coupon Bonds)	12
(Form of Coupon)	16
(Certificate of Conversion)	17
(Form of Single, Fully Registered Bond)	18
RECORD OF ADVANCES	22
ARTICLE III - 1973 BOND PROCEEDS; REVENUES AND APPLICATION THEREOF	
Section 3.01. 1973 Bond Proceeds; Project Construction Account	23
Section 3.02. Covenants as to Revenues and Funds	24
ARTICLE IV - GENERAL COVENANTS	
Section 4.01. General Statement	29
Section 4.02. Rates	29
Section 4.03. Sale of the System	29
Section 4.04. Covenant Against Encumbrances	30

Section 4.05.	Issuance of Additional Parity Bonds	31
Section 4.06.	Insurance and Bonds	34
Section 4.07.	Events of Default	36
Section 4.08.	Enforcement	36
Section 4.09.	No Priority Between Bonds	37
Section 4.10.	Fiscal Year; Budget	37
Section 4.11.	Covenant to Proceed and Complete	38
Section 4.12.	Books and Records	38
Section 4.13.	Maintenance of the System	39
Section 4.14.	No Competition	39
Section 4.15.	Covenant Concerning Arbitrage	39

ARTICLE V - RATES, ETC.

Section 5.01.	Initial Schedule of Rates and Charges; Rules	40
---------------	--	----

ARTICLE VI - MISCELLANEOUS

Section 6.01.	Filing Under Uniform Commercial Code	43
Section 6.02.	Modification or Amendment	43
Section 6.03.	Sale of 1973 Bonds	43
Section 6.04.	Refunding of Bonds Permitted	44
Section 6.05.	Severability of Invalid Provision	45
Section 6.06.	Conflicting Provisions Repealed	45
Section 6.07.	Table of Contents and Headings	45
Section 6.08.	Effective Time	45
Section 6.09.	Statutory Notice and Public Hearing	45

TOWN OF MIDDLEBOURNE

ORDINANCE AUTHORIZING THE ISSUANCE OF \$215,000 SEWER REVENUE BONDS, SERIES 1973, OF THE TOWN OF MIDDLEBOURNE TO FINANCE THE COSTS OF ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE SEWERAGE SYSTEM OF THE TOWN; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING FOR THE FIXING, ESTABLISHING AND COLLECTING OF RATES AND CHARGES FOR THE SERVICES AND FACILITIES OF THE SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE
TOWN OF MIDDLEBOURNE:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Article 13, Chapter 16 of the West Virginia Code and other applicable provisions of law.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) The Town of Middlebourne (herein called the "Town"), in the County of Tyler, State of West Virginia, now owns a public sewerage system which serves a part of the Town. The inhabitants of the Town and surrounding area urgently need additional sewerage facilities as herein provided.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the said inhabitants, and, accordingly, it is hereby ordered, that there be constructed additions, extensions and improvements for the existing sewerage system of the Town consisting of a treatment plant, lift stations and all necessary

appurtenant facilities (hereinafter collectively called the "Project") particularly described in and according to the plans and specifications prepared by Wheeler Associates, Inc., Consulting Engineers, of Parkersburg, West Virginia (herein called the "Consulting Engineer"), and heretofore filed in the office of the Recorder.

(C) It is necessary for the Town to issue its revenue bonds in the principal amount of \$215,000 to finance the costs of acquisition and construction of the Project in the manner hereinafter provided.

(D) The estimated maximum cost of the construction of the Project is \$450,120, of which \$215,000 will be obtained from the proceeds of sale of the Bonds herein authorized and \$235,120 from a grant by Environmental Protection Administration.

(E) The cost of such construction shall be deemed to include, without being limited to, the construction and acquisition of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the 1973 Bonds during and for six months after the estimated completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction and acquisition of the Project and the financing authorized hereby.

(F) The period of usefulness of the System after completion of the Project is not less than forty years.

(G) There are not outstanding any bonds or other obligations of the Town which will have priority over or rank on a parity with the Bonds as to lien or source of or security for payment.

(H) The mandatory use of the sewer facilities of the System is hereby determined and declared to be essential and necessary for the protection and preservation of the public health, comfort, safety, convenience, welfare and economy of the inhabitants of the Town and for the rendering harmless of sewage and water-borne waste matter produced or arising within the Town. Accordingly, every owner, tenant and occupant of every lot, parcel and tract of land which abuts on a street, alley or other public way in which any sewer line, main or facility is located, or which is located within 100 feet thereof and upon which lot, parcel or tract a building or other habitable structure has been or shall be erected for residential, commercial or industrial use, from which sewage will flow by gravity to the sewer facilities, shall connect such building or structure with the sewer facilities of the System immediately upon completion of the Project and shall thereafter refrain from using and cease to use any other method for the disposal of sewage or water-borne waste matter and shall pay all charges, fees and rates provided herein, all as provided in the Act.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Town and such Bondholders, and the covenants and agreements herein set forth to be performed by the Town shall be for the equal benefit, protection and security of the legal holders of any and all such Bonds, and the coupons appertaining thereto, all which shall be of equal rank without preference, priority or distinction of any of the Bonds or coupons over any other thereof, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Article 13, Chapter 16 of the West Virginia Code.

"Bonds" means the \$216,000 Sewer Revenue Bonds, Series 1973, originally authorized to be issued pursuant to this Ordinance and shall also be deemed to include, where appropriate, the interest coupons attached to the 1973 Bonds; and also includes any additional Bonds hereafter issued on a parity with the 1973 Bonds within the terms, restrictions and conditions contained in this Ordinance, and the interest coupons appertaining to such additional parity Bonds.

"1973 Bonds" means the Bonds hereby authorized to be issued initially.

"Consulting Engineer" means Wheeler Associates, Inc., Consulting Engineers, Parkersburg, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Town as Consulting Engineer for the System.

"Facilities" means all the facilities of the System initially consisting of the Project, and also any facilities which may hereafter be added to the System by any additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Government" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Herein" means in this Ordinance.

"Holder of the Bonds" or "Bondholder" or any similar term means any person who shall be the bearer or owner of any outstanding Bond or Bonds registered to bearer or not registered, or the registered owner of any outstanding Bond or Bonds which shall at the time be registered other than to the bearer, or of any coupons representing interest accrued or to accrue on said Bonds.

"Mayor" means the Mayor of the Town.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operating expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Town relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices.

"Original Purchaser" means the purchaser, directly from the Town, of any series of Bonds issued pursuant hereto, or any part of any such series.

"Project" shall have the meaning stated above in Section 1.02(B).

"Recorder" means the Recorder of the Town.

"Reserve Requirement" means the maximum annual aggregate amount of interest and principal which will fall due on the Bonds outstanding.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the Town, or accrued to the Town, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"System" means the sewerage system of the Town, consisting of the Project, and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system; and shall also include any and all additions, extensions, improvements, properties, or other facilities at any time acquired or constructed for the System after completion of the Project.

"Town" means the Town of Middlebourne, in Tyler County, West Virginia, and, where appropriate, also means the Common Council thereof and any department, board, agency or instrumentality thereof in control of the management and operation of the System.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,
REGISTRATION AND ISSUE OF BONDS

Section 2.01. Authorization of 1973 Bonds. Subject and pursuant to the provisions hereof, Bonds of the Town, to be known as "Sewer Revenue Bonds, Series 1973" are hereby authorized to be issued in the aggregate principal amount of not exceeding Two Hundred Fifteen Thousand Dollars (\$215,000) for the purpose of financing the cost of the construction and acquisition of the Project.

Section 2.02. Description of 1973 Bonds. The 1973 Bonds may be issued in coupon or single, fully registered form, and shall be dated on the date of delivery thereof. The coupon Bonds shall be in the denomination of \$1,000 each, shall be numbered in order of maturity, lowest number first, from 1 to 215, inclusive, and shall bear interest from date, payable annually on January 1 of each year, at the rate or rates of not to exceed the rate of five per centum (5%) per annum. The minimum price for the 1973 Bonds shall be the par value thereof. Coupon and single, fully registered 1973 Bonds shall be exchangeable and interchangeable at the expense of the holder on 90 days' notice in writing to the Town, provided that any single, fully registered 1973 Bond issued upon initial delivery of the 1973 Bonds by the Town shall be exchanged on request of the owner for coupon Bonds at the expense of the Town.

The 1973 Bonds shall mature serially in numerical order, lowest numbers first, on January 1 in years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1976	\$ 2,000	1988	\$ 4,000	2001	\$ 7,000
1977	2,000	1989	4,000	2002	7,000
1978	2,000	1990	4,000	2003	7,000
1979	2,000	1991	4,000	2004	8,000
1980	2,000	1992	4,000	2005	8,000
1981	2,000	1993	4,000	2006	9,000
1982	3,000	1994	5,000	2007	9,000
1983	3,000	1995	5,000	2008	9,000
1984	3,000	1996	5,000	2009	10,000
1985	3,000	1997	6,000	2010	11,000
1986	3,000	1998	6,000	2011	11,000
1987	4,000	1999	6,000	2012	12,000
		2000	6,000	2013	13,000

The 1973 Bonds shall be redeemable prior to their respective stated dates of maturity at the option of the Town in whole or in part, in inverse numerical order of January 1, 1985, and on any January 1 thereafter at the price of the par value thereof and accrued interest to the date of redemption, subject to earlier redemption as provided in Section 3.01 hereof upon completion of the Project. If all the 1973 Bonds are held by the Government, all or any number of the 1973 Bonds may be redeemed at any time in inverse numerical order.

Notice of the redemption of any of the 1973 Bonds shall be published at least once not less than thirty nor more than sixty days prior to the date of redemption in a financial newspaper published in the City of New York, New York, and notice of any such redemption shall be sent by registered or certified mail to the holders of registered 1973 Bonds. If all 1973 Bonds to be redeemed are registered other than to bearer, no publication of such redemption need be made. Interest shall cease upon any of the 1973 Bonds so called for prior redemption on the date fixed for redemption, provided payment thereof has been duly made or provided for.

The 1973 Bonds shall be payable with respect to both principal and interest in lawful money of the United States of America at the office of the State Sinking Fund

Commission, Charleston, West Virginia, or at First National City Bank, New York, New York, at the option of the holder unless otherwise provided in and for the single, fully registered Bonds, and shall bear interest from their date, payable in accordance with and upon the surrender of the appurtenant interest coupons as they severally mature.

Section 2.03. Execution of Bonds and Coupons. The Bonds shall be executed in the name of the Town by the Mayor and the corporate seal of the Town shall be affixed thereto and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Town by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Town, although at the date of such Bond such person may not have held such office or may not have been so authorized.

The coupons to be attached to the Bonds shall be authenticated with the facsimile signatures of the present or any future Mayor and Recorder, and the Town may adopt and use for that purpose the facsimile signature of any person who shall have been such Mayor or Recorder at the time when said Bonds shall be actually sold and delivered.

The 1973 Bonds may be sold at one time in their entirety or from time to time in installments as the Town may determine without preference or priority as to any of the 1973 Bonds on account of any such sale in installments.

Section 2.04. Negotiability and Registration. The Bonds shall be and have all the qualities and incidents of negotiable instruments under the laws of the State of West Virginia and shall pass by delivery except when registered. The 1973 coupon Bonds may be registered as to principal only or converted into bonds registered as to both principal and interest in accordance with the provisions of the forms hereinafter provided.

Section 2.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Town may, in its discretion, issue and deliver a new Bond with all unmatured coupons attached of like tenor as the Bond and attached coupons, if any, so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond and attached coupons, if any, or in lieu of and substitution for the Bond and attached coupons, if any, destroyed, stolen or lost, and upon the holder's furnishing the Town proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Town may require. All Bonds and coupons so surrendered shall be canceled and held for the account of the Town. If any such Bond or coupon shall have matured or be about to mature, instead of issuing a substitute Bond or coupon, the Town may pay the same, upon being indemnified as aforesaid, and, if such Bond or coupon be destroyed, stolen or lost, without surrender thereof.

Any such duplicate Bond and coupon issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Town, whether or not the destroyed, stolen or lost Bonds or coupons be at

any time found by anyone, and such duplicate Bonds and coupons shall be entitled to equal and proportionate benefits with all other Bonds and coupons issued hereunder.

Section 2.06. Bonds Secured by Pledge of Revenues.

The payment of the debt service of all the Bonds shall be secured forthwith equally and ratably by a lien on the revenues derived from the System. The revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bonds, and to make the payments into the Sinking Fund and otherwise as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due as herein provided.

Section 2.07. Form of 1973 Bonds and Coupons.

Subject to the provisions hereof, the text of the 1973 Bonds, the provision for registration to be endorsed thereon, the coupons, the single bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Ordinance or any subsequent ordinance or resolution enacted or adopted prior to the issuance thereof:

(Form of Coupon Bonds)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF TYLER
TOWN OF MIDDLEBOURNE
SEWER REVENUE BOND, SERIES 1975

No.

\$1,000

The TOWN OF MIDDLEBOURNE, in the County of Tyler, State of West Virginia, a municipal corporation of the State of West Virginia (herein called the "Town"), for value received, hereby promises to pay to the bearer, or, if this Bond be registered, to the registered holder as herein provided, on the first day of January, , from the revenues hereinafter mentioned, the principal sum of

ONE THOUSAND DOLLARS

with interest thereon at the rate of _____ per centum (%) per annum, payable on the first day of January of each year, upon the presentation and surrender of the annexed coupons as they severally fall due, unless this Bond be converted into a Bond registered as to both principal and interest. Both principal of and interest on this Bond are payable in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, or, at the option of the holder, at First National City Bank, New York, New York.

The Bonds of the issue and series of which this Bond is one may be redeemed prior to their stated maturities, without premium, at the option of the Town as a whole, or in part in inverse numerical order, on any January 1 beginning January 1, 1985, as provided in the Ordinance hereinafter mentioned, subject to earlier redemption if held by the Federal Government or from moneys in the Project Construction Account, all as

provided in said Ordinance. Notice of any such redemption shall be published at least once not less than thirty nor more than sixty days prior to the redemption date in a financial newspaper published in the City of New York, New York. Interest shall cease upon this Bond after the date fixed for redemption if it shall be duly called for prior redemption and payment thereof duly provided for.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of Two Hundred Fifteen Thousand Dollars (\$215,000) of like date, tenor and effect, except as to number* and date of maturity issued to finance part of the cost of the construction and acquisition of additions to the existing sewerage system (herein collectively called the "System") of the Town under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13, Chapter 16 of the West Virginia Code (herein called the "Act") and other applicable statutes, and an Ordinance duly enacted by the Council of the Town.

This Bond and the coupons appertaining hereto are payable solely from, and secured by a lien on and pledge of, the revenues derived from the operation of the System, with monthly payments from such revenues to be made into the Sinking Fund with the State Sinking Fund Commission for payment of the principal hereof and interest hereon, in the manner provided in said Ordinance, and do not and shall not in any event constitute an indebtedness of the Town within the meaning of any constitutional

* add ", and interest rate" if more than one rate
add ", and date of issuance" if more than one date and
delete "date" in line above

or statutory provision or limitation, and the Town shall never be obligated to pay this Bond or the interest hereon except from the revenues of the System. The Town covenants with the holders of the Bonds of the issue of which this Bond is one to establish and at all times maintain such rates and collect such charges for the services and facilities of the System, and to revise the same from time to time, whenever necessary, as will always provide revenues in each fiscal year sufficient to make the required payments into the Sinking Fund and the reserves and accounts as provided in said Ordinance and to pay all necessary expenses of operating and maintaining the System during such fiscal year, and the Town has entered into certain other covenants with the holders of the Bonds of the issue of which this Bond is one, for the terms of which reference is made to said Ordinance.

Additional Bonds, on a parity with this Bond and the Bonds of the issue of which this Bond is one, as to lien and source of and security for payment, may be issued under the provisions and restrictions contained in said Ordinance.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in regular and due form, time and manner as required by the laws and Constitution of the State of West Virginia applicable thereto, and that the issuance of this Bond and of the issue of Bonds of which this Bond is one is not in violation of any constitutional or statutory limitation of indebtedness.

This Bond, under the provisions of the Act, is, and has all the qualities and incidents of, a negotiable instrument.

This Bond and the interest hereon are, under the provisions of the Act, exempt from all taxation by the State of West Virginia and any county, municipality, political subdivision or agency thereof.

IN WITNESS WHEREOF, the Town of Middlebourne has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereto and attested by its Recorder and the annexed coupons to be executed with the facsimile signatures of said Mayor and said Recorder, all as of the ____ day of _____, 19 ____.

TOWN OF MIDDLEBOURNE

By _____
Mayor

ATTEST:
(SEAL)

Recorder

(Form of Coupon)

§

On the first day of January, 19__ , unless the Bond to which this coupon was originally attached shall have been callable and duly called for prior redemption and payment of the redemption price duly made or provided for, the Town of Middlebourne, in Tyler County, West Virginia, will pay to the bearer at the office of the State Sinking Fund Commission, Charleston, West Virginia, or, at the option of the holder, at First National City Bank, New York, New York, solely from the revenues described in the Bond to which this coupon is attached, the sum shown hereon in lawful money of the United States of America, upon presentation and surrender of this coupon, being the interest then due on its Sewer Revenue Bond, Series 1973, dated _____, 19__, No.

TOWN OF MIDDLEBOURNE

By _____ (facsimile signature)
Mayor

ATTEST:

(facsimile signature)
Recorder

(Certificate of Conversion)

It is hereby certified over my signature and the official seal of the issuing Town that upon the presentation of the within Bond with a written request by the holder thereof for its conversion into a bond registered as to both principal and interest, there have been this day cut off and destroyed ____ interest coupons attached thereto, of the amount and value of _____ each, being all the coupons for interest on the within Bond payable after the date of this certificate, and that the interest at the rate and on the dates stated in the within bond and as was provided by the coupons, as well as the principal, is to be paid to the registered holder hereof, his legal representatives, successors or transferees, at the place stated in the within bond and as was stated in the coupons. The principal of and interest on this Bond shall be payable only to the registered holder hereof named in the registration blank below, or his legal representative, and this Bond shall be transferable only on the books of the registrar kept in the office of the undersigned, and by an appropriate notation in such registration blank. When registered the registrar shall treat the registered owner as the person exclusively entitled to payment of interest and the exercise of all other rights and powers of the owner prior to due presentment for registration of transfer.

Dated: _____, 19__.

(SEAL OF TOWN)

_____, Registrar

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Recorder of Town as Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Form of Single, Fully Registered Bond)

REVENUE BOND

No. R-1

TOWN OF MIDDLEBOURNE

Date: _____

FOR VALUE RECEIVED, the TOWN OF MIDDLEBOURNE (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government") at its office in New Martinsville, West Virginia, or at such other place as the Government may hereafter designate in writing, the principal sum of Two Hundred Fifteen Thousand Dollars (\$215,000), plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Interest only January 1, 1974, and January 1, 1975, and \$12,750 annually thereafter on January 1, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date

basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions for the sewerage system of the Borrower, is payable solely from the revenues to be derived from the operation of such system after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the system. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia,

including, among others, Article 13 of Chapter 16 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Administration Act of 1961. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

(CORPORATE SEAL)

TOWN OF MIDDLEBOURNE
(Name of Borrower)

(Signature of Executive Official)

ATTEST:

(Signature of
Attesting Official)

Mayor
(Title of Executive Official)

Recorder
(Title of Attesting
Official)

(Post Office Box No. or
Street Address)

Middlebourne, West Virginia 26149
(City, State and Zip Code)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL

Pay to the Order of _____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

(Title)

ARTICLE III

1973 BOND PROCEEDS; REVENUES AND
APPLICATION THEREOF

Section 3.01. 1973 Bond Proceeds; Project Construction Account. All moneys received from the sale of any or all the 1973 Bonds and all moneys received under said grant shall be deposited on receipt by the Town in Tyler County Bank, Middlebourne, West Virginia, a member of Federal Deposit Insurance Corporation (FDIC), in a special account hereby now established and designated as "Town of Middlebourne 1973 Sewer System Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Town solely for the purposes provided herein.

Until completion of construction of the Project, the Town will transfer from the Project Construction Account and deposit in the Sinking Fund, not later than fifteen days prior to the next interest payment date, such sums as shall be from time to time required to pay the interest becoming due on the 1973 Bonds on such interest payment date.

If the Town shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the Town may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months

after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be promptly transmitted to the State Sinking Fund Commission with directions that such funds be used immediately to redeem or prepay the latest maturing 1973 Bonds and any residue shall be deposited in the Sinking Fund.

Section 3.02. Covenants as to Revenues and Funds.

So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account therein, hereinafter established, a sum sufficient to pay, when due or at the earliest practical redemption date, the entire principal of the Bonds remaining unpaid together with interest accrued and to accrue thereon, the Town further covenants with the holders of any and all Bonds issued pursuant hereto as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, except as otherwise provided herein, shall be deposited as collected by the Town in a special fund known as the "Revenue Fund", hereby established initially with said Tyler County Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Town and used only for the purposes and in the manner provided herein.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only

in the following order and priority:

(1) The Town shall first, each month, from the moneys in the Revenue Fund, pay or provide for payment of all current Operating Expenses.

(2) The Town shall next, before the end of each month, transfer from the Revenue Fund and remit to the State Sinking Fund Commission, for deposit into the "Sinking Fund", which is hereby established with the State Sinking Fund Commission, one-twelfth of the amount required to pay the interest becoming due on the Bonds on the next interest payment date and, commencing with the month of January, 1975, one-twelfth of the amount of principal maturing on the next Bond principal maturity date.

The Town shall also remit to the State Sinking Fund Commission, from time to time, such amounts as shall be required to pay the fiscal charges due to paying agents for paying the Bonds and the interest thereon.

(3) The Town shall next, each month, transfer from the Revenue Fund and remit to the State Sinking Fund Commission, for deposit into the Reserve Account, hereby established in the Sinking Fund, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Bonds outstanding until the amount in the Reserve Account equals such maximum annual aggregate amount of interest and principal. After such amount has been accumulated in the Reserve Account, the Town shall monthly remit to the State Sinking Fund Commission such part of the moneys remaining in the Revenue Fund, after such provision for payment of maturing principal of and interest on the Bonds, as shall be required to maintain such amount in the Reserve Account. Moneys in the Reserve Account shall be used solely to make up any deficiency in the Sinking

Fund for payment of the principal of and interest on the Bonds as the same shall mature or for mandatory redemption of Bonds as hereinafter provided and for no other purpose.

(4) The Town shall next, each month, transfer from the Revenue Fund and remit to the State Sinking Fund Commission the moneys remaining in the Revenue Fund for deposit in the Depreciation Reserve, hereby established with the State Sinking Fund Commission, until there has been accumulated therein the sum of \$8,000 and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies in the Sinking Fund for payment of principal of and interest on the Bonds as the same mature, and next to restore to the Reserve Account any sum or sums transferred therefrom to the Sinking Fund. Thereafter, and provided that payments into the Sinking Fund and the Reserve Account therein are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Town and used for extensions, replacements and improvements of the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund, as the case may be, have been fully complied with, any moneys remaining therein may be used to redeem Bonds outstanding or for any lawful purpose in connection with the System, the State Sinking Fund Commission to handle redemption of Bonds upon instructions of the Town.

Whenever the moneys in the Sinking Fund and in the Reserve Account therein shall be sufficient to purchase or redeem all Bonds outstanding, it shall be the mandatory duty of the Town, anything to the contrary in this Ordinance notwithstanding, to direct the State Sinking Fund Commission to purchase or redeem all outstanding Bonds at the earliest practical date and in accordance with applicable provisions

hereof, any such purchase to be at a price or prices not exceeding the then market price of Bonds so purchased, but in no event exceeding the then redemption price of the Bonds, as to Bonds subject to redemption, and not exceeding the par value of Bonds not subject to redemption but available for purchase, plus interest accrued to date of redemption.

The State Sinking Fund Commission is hereby designated as the Fiscal Agent for the administration of the Sinking Fund, the Reserve Account and the Depreciation Reserve as herein provided, and all amounts required therefor will be remitted to the State Sinking Fund Commission from the Revenue Fund by the Town at the times provided herein, together with written advice stating the amount remitted for deposit into said Fund, Account and Reserve.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Bondholders shall have a lien thereon for further securing payment of the Bonds and the interest thereon. The moneys in excess of the sum insured by FDIC in the Revenue Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

If on any payment date the revenues are insufficient to place the required amount in any of the funds or accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to those which would otherwise be required to be made into the funds or accounts on the subsequent payment dates.

The State Sinking Fund Commission shall keep the

moneys in the Sinking Fund, the Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years.

(C) Initial Customers. Prior to commencement of construction of the Project, the Town shall certify that there are not less than 294 users of the facilities of the System.

ARTICLE IV
GENERAL COVENANTS

Section 4.01. General Statement. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account therein a sum sufficient to pay when due, or redeem or purchase prior to maturity, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon and any applicable redemption premiums, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Town and the Bondholders.

Section 4.02. Rates. The Town will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the average annual debt service on all Bonds outstanding and to make the payments required herein to be made into the Sinking Fund, the Reserve Account and the Depreciation Reserve, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay all the Bonds and the interest thereon as herein provided. The proceeds from such sale, mortgage, lease or other disposition

of the System shall immediately be remitted to the State Sinking Fund Commission and the Town shall direct said Commission to apply such proceeds to the payment of the principal of and interest on the Bonds at the redemption prices for the respective series, or upon purchase of Bonds available for purchase at the then current market price not exceeding the par value thereof plus accrued interest to the date of purchase. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Town by the State Sinking Fund Commission unless necessary for the payment of other obligations issued by the Town and payable out of the revenues of the System.

The foregoing provision notwithstanding, the Town shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof, provided that the net book value thereof does not exceed \$5,000. Prior to any such sale, lease or other disposition of said property, the general manager or other duly authorized officer in charge of the System shall make a finding in writing, concurred in by resolution of the Council, determining that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and such proceeds shall be deposited in the Depreciation Reserve.

Payments of such proceeds into the Depreciation Reserve shall not reduce the amounts required to be paid into the Depreciation Reserve by other provisions hereof.

Section 4.04. Covenant Against Encumbrances. The Town will not issue any obligations whatsoever, except addi-

tional parity Bonds hereinafter provided for, payable from the revenues of the System which rank prior to or equally as to lien on and source of and security for payment from such revenues with the Bonds; and all obligations hereafter issued by the Town payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues, and in all other respects, to the Bonds.

Except as herein provided as to additional parity Bonds, the Town will not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge, having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged hereby as security therefor, or upon the System or any part thereof.

Section 4.05. Issuance of Additional Parity Bonds.

No additional parity Bonds, as in this Section defined, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant hereto, except under the conditions and in the manner herein provided.

(A) No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, additions and improvements to the System or refunding Bonds issued hereunder, except as provided in subsection (G) of this Section.

(B) No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written certification by a certified public accountant not in the regular employ of the Town based upon the necessary investigation, reciting the conclusion that the net revenues, as defined herein, actually derived from

the System during the fiscal year immediately preceding the date of the issuance of such additional parity Bonds, shall have been not less than one hundred twenty per centum (120%) of the average aggregate amount which will mature or become due in any succeeding fiscal year for principal of and interest on the Bonds then outstanding and on the additional parity Bonds then proposed to be issued. This limitation may be waived or modified by the written consent of Bondholders representing 75% of each Series of the then outstanding Bonds issued pursuant hereto.

(C) Prior to the issuance of any such additional parity Bonds, the Town shall have entered into written contracts for the immediate acquisition or construction of such additions, extensions or improvements to the System which are to be financed by such additional parity Bonds.

(D) The term "additional parity Bonds", as used in this Section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this Section, payable from the revenues of the System on a parity with the 1973 Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the holders of any Bonds issued pursuant to this Ordinance and the holders of any additional parity Bonds subsequently issued within the limitations of and in compliance with this Section. All such Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System, and their source of and security for payment from said revenues, without preference of any Bond or coupon over any other. The Town shall comply fully with all the

increased payments into the various funds created herein required for such additional parity Bonds, in addition to the payments required for Bonds originally issued hereunder. Redemption of Bonds prior to maturity in the event that the 1973 Bonds and additional parity Bonds hereby authorized are outstanding, shall as nearly as practical be on an equal pro rata basis reflecting the original amounts of each issued.

(E) All additional parity Bonds issued pursuant to this Section shall mature on January 1 of each year of maturity, and the interest thereon shall be payable January 1 of each year.

(F) No additional parity Bonds shall be issued at any time unless all the payments into the respective Funds provided for herein on Bonds then outstanding and all other payments provided for herein shall have been made or paid up as required to the date of issuance of the additional parity Bonds and the Town shall have fully complied with all the covenants, agreements and terms hereof or shall have remedied any deficiency in such compliance.

(G) With the written consent in advance of the original purchaser of the 1973 Bonds and of Farmers Home Administration and anything to the contrary in subsections (A), (B) and (C) of this Section notwithstanding, additional parity Bonds may be authorized and issued by the Town pursuant to supplemental ordinance in the event that the 1973 Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction of the Project. Any such additional parity Bonds authorized and issued under the provisions of this subsection shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of such construction costs,

and the maturities of any such additional parity Bonds shall be in years and amounts suggested by said original purchaser and Farmers Home Administration.

Section 4.06. Insurance and Bonds. The Town hereby covenants and agrees that so long as any of the Bonds remain outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Town will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Town will itself, or will require each prime contractor to obtain and maintain builder's risk insurance to protect the interests of the Town during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the Town from claims for bodily injury and/or death, and not less than \$50,000 from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured at the commencement of construction of the Project.

(c) Vehicular Public Liability Insurance, in the event the Town owns or operates any vehicle in the operation

of the System, or in the event that any vehicle not owned by the Town is operated for the benefit of the Town with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the Town from claims for bodily injury and/or death, and not less than \$50,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(d) Workmen's Compensation Coverage for all Employees of or for the System Eligible Therefor; and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each contractor dealing directly with the Town, and such payment bonds will be filed with the Clerk of the County Court of said County prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every officer and employee of the Town having custody of the Revenue Fund or of any other funds of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$5,000 upon the Recorder, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Government holds any of the Bonds, the Town will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Town and during such construction will require each

contractor and subcontractor to carry insurance, of such types and in such amounts as the Government may specify, with insurance carriers or bonding companies acceptable to the Government.

Section 4.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of the principal, and, if any premium be due, of such premium, of any of the Bonds either at the date therein specified for their payment or by proceedings for redemption or otherwise;

(B) Failure to make payment of any installment of interest due on any of the Bonds on the date specified for the payment of such interest;

(C) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Town in the Bonds or herein, or violation of or failure to observe any provision of any pertinent law, provided any such failure or violation, excluding those covered in (A) and (B) above in this Section, shall continue for a period of thirty days after written notice shall have been given to the Town by any Bondholder specifying such failure or violation and requiring the same to be remedied.

Section 4.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, any Bondholder may proceed to protect and enforce the rights of the Bondholders by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by such Bondholder, such court may, upon proof of such default, appoint a receiver for the affairs of the Town and the System. The receiver so appointed shall administer the System on behalf of the Town, shall exercise all the rights and powers of the Town with respect to the System and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.09. No Priority Between Bonds. The Bonds, as herein defined, shall not be entitled to priority one over the other in the application of the revenues of the System or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention hereof that there shall be no priority among such Bonds, regardless of the fact that they may be actually issued and delivered at different times.

Section 4.10. Fiscal Year; Budget. While any Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the Town agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Council. Copies of each Annual Budget shall be delivered to the Government, by the beginning of each fiscal year and shall be mailed to the original purchaser of the 1973 Bonds and to those Bondholders who shall have filed their names and addresses with the Recorder for such purpose.

If for any reason the Town shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Town. Each such Budget of Current Expenses shall be delivered and mailed immediately as in the case of the Annual Budget.

Section 4.11. Covenant to Proceed and Complete.

The Town hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recorder on the date of enactment hereof, subject to permitted changes.

Section 4.12. Books and Records. The Town will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Town in which complete and correct entries shall be made of all transactions relating to the System, and any holder of a Bond or Bonds, his agents and representatives, shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Town relating thereto.

The Town shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants, shall mail a copy of such audit report to the

Government and the original purchaser of the Bonds, and shall make available the report of said accountants at all reasonable times to any holder or holders of the Bonds, or any customer receiving services from the System, or anyone acting for and in behalf of such Bondholder, Bondholders or customer. The Government, so long as it holds all the Bonds, may permit substitution of a copy of the annual audit report by the office of the State Tax Commissioner for the copy of annual audit report by a certified public accountant.

Section 4.13. Maintenance of the System. The Town covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as any of the Bonds are outstanding.

Section 4.14. No Competition. The Town will not permit competition with the sewerage facilities within its boundaries or within the territory served by it and will not grant or cause, consent to, or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the sewerage facilities within the boundaries of the Town or within the territory served by the system.

Section 4.15. Covenant Concerning Arbitrage. The Town hereby covenants with the Bondholders that it is not reasonably expected that the proceeds of the Bond issue will be invested in such a way as to violate the operating rules in the Internal Revenue Service and Treasury Department regulations concerning arbitrage under Section 103(d) of the Internal Revenue Code of 1954, as amended. The Town hereby directs that

the State Sinking Fund Commission and the depository bank
for the Project Construction Account so invest such proceeds
and other funds in their hands as to avoid violation of such
rules.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges:

Rules. A. The initial schedule of rates and charges for the services and facilities of the System shall be as follows:

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES FOR WATER CONSUMPTION

First	3,000 gallons used per month	\$1.94 per 1,000 gallons
Next	3,000 gallons used per month	1.19 per 1,000 gallons
Next	14,000 gallons used per month	1.06 per 1,000 gallons
Next	20,000 gallons used per month	.94 per 1,000 gallons
Next	20,000 gallons used per month	.86 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following amount:

5/8 inch meter	\$ 5.81 per month
----------------	-------------------

DELAYED PAYMENT PENALTY AND RECONNECT CHARGE

Bills are payable when rendered. On all accounts not paid in full within ten (10) days of date of bill, ten percent (10%) will be added to the net amount shown. If any bill is not paid within forty (40) days of the date thereof, water service to the customer shall be shut off and the meter locked. On such shutting off of service, water service shall not be restored until all past due water bills shall have been paid in full, and all accrued penalties, plus a reconnect charge of fifteen (\$15.00) dollars. Notice of discontinuance will be given in accordance with Public Service Commission Rules and Regulations pertaining to Sewer Utilities.

CONNECTION CHARGE (TAP FEES)

The connection charge (tap fee) to be charged each new customer in advance, following completion of the Project, shall be \$150 or actual cost of installation, including materials and labor, whichever is greater.

MULTIPLE OCCUPANCY

On apartment buildings or other multiple occupancy buildings, house trailer (mobile house) court or park, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a 5/8" meter. Hotels and motels shall pay according to the size of the meter installed.

B. The Town will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Town or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

C. The Town may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

D. No allowance or adjustment in any bill for use of the services and facilities of the System shall be made for any leakage occurring on the customer's side of any water meter.

E. The Town shall not be liable to any customer for any damage resulting from bursting or breakage of any line, main, pipe, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatsoever.

F. In case of emergency, the Town shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the Town.

G. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the Town shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide net revenues to meet its obligations hereunder, but not less than 110% of the average annual debt service on all Bonds outstanding.

ARTICLE VI
MISCELLANEOUS

Section 6.01. Filing Under Uniform Commercial Code.

Contemporaneously with the delivery of the Bonds, or sooner, the Town shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the offices of the Secretary of State of the State of West Virginia and of the Clerk of the County Court of said County.

Section 6.02. Modification or Amendment. No material modification or amendment of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of two-thirds or more in principal amount of each series of the Bonds then outstanding; provided, however, that no modification or amendment shall permit a change in the maturity of any of the Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation, or affecting the unconditional promise of the Town to pay the principal of and interest on the Bonds as the same shall become due from the revenues of the System, without the consent of the holders of such Bonds. Notwithstanding the above, no amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications, and for consent of 75% of the holders of each Series of Bonds outstanding to waiver or modification of the limitation upon issuance of additional parity Bonds contained in Section 4.05B.

Section 6.03. Sale of 1973 Bonds. The Recorder is hereby authorized and directed to cause notice for bids for the purchase of the 1973 Bonds, but not less than all, to

be published at least once not less than five days prior to the date fixed for the receipt of bids, in a newspaper published and of general circulation in said County.

Section 6.04. Refunding of Bonds Permitted. The Town reserves the right to refund the Bonds, subject to applicable provisions of West Virginia law, when in its judgment it would be to the best interests of the Town and of its inhabitants so to do. Upon payment of all the Bonds outstanding, prior to or simultaneously with the issuance of any refunding bonds or of an issue of bonds for the purposes of refunding the Bonds then outstanding and providing funds for additions, extensions and improvements to the System, or upon provision for such payment by deposit irrevocably in trust, with the State Sinking Fund Commission of West Virginia, of a sum equal to the principal amount of the Bonds outstanding, plus an amount equal to all interest accrued and to accrue to the date of payment or redemption of such Bonds, and plus an amount sufficient to pay all applicable redemption premiums on the earliest practical redemption date, the security, pledge and any lien applicable to the Bonds then outstanding shall immediately cease. The sum so deposited in trust shall be used solely to pay at the earliest practical redemption date the principal amount of the Bonds and all interest thereon to the date of redemption and the applicable redemption premiums, or to purchase Bonds at not to exceed the par value of the Bonds plus interest accrued to date of purchase. The moneys so deposited may be invested by the State Sinking Fund Commission in direct obligations of the United States of America or obligations the payment of the principal of and interest on which is guaranteed by the United States of America, having maturities not later than the dates on which the moneys shall

be required to be used for such redemption.

Section 6.05. Severability of Invalid Provision.

If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions hereof or the Bonds or coupons appertaining thereto.

Section 6.06. Conflicting Provisions Repealed.

All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed.

Section 6.07. Table of Contents and Headings.

The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.08. Effective Time.

This Ordinance shall take effect following public hearing hereon in accordance with the Act.

Section 6.09. Statutory Notice and Public Hearing.

Upon enactment hereof, this Ordinance shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in either The Journal or The Star News, both being newspapers published and of general circulation

in the said County, no newspaper being published in the Town,
and publication of this Ordinance shall be together with a
notice stating that this Ordinance has been enacted and that
the Town contemplates the issuance of the 1973 Bonds, and
that any person interested may appear before the Council upon
a date certain, not less than ten days subsequent to the date
of the second publication of this Ordinance and notice,
and present protests. At such hearing, all objections and
suggestions shall be heard, and the Council shall take such
action as it shall deem proper in the premises.

Passed on First Reading 3/26, 1973

Passed on Second and
Final Reading 4/16, 1973

Effective following public hearing held on the
date of Second and Final Reading stated above.

Mayor

Recorder

WV MUNICIPAL BOND COMMISSION
812 Quarrier Street, Suite 300
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: August 19, 1999

ISSUE: \$800,000 Town of Middlebourne, Sewer Revenue Bonds (Rural Utilities Service), Series 1999A,
\$375,000 Town of Middlebourne, Sewer Revenue Bonds (State Revolving Fund), Series 1999B and
\$120,000 Town of Middlebourne, Sewer Revenue Refunding Bonds (Union Bank of Tyler County),
Series 1999C

ADDRESS: 100 Main Street
Middlebourne, WV 26149

PURPOSE: New Money ☒ X

OF ISSUE: Refunding ☒ X Refunds issue dated: January 1, 1973

ISSUE DATE: August 27, 1999

ISSUE AMOUNTS: \$800,000, \$375,000 and
\$120,000

1st DEBT SERVICE DUE: 12/1/00 (B Bond)
1/1/00 (C Bond)

1ST DEBT SERVICE AMOUNT: \$5,699.00 (B Bond)
\$6,120.45 (C Bond)

COUNTY: Tyler

CLOSING DATE: August 27, 1999

RATES: 5%, 2% and 5%

1ST PRINCIPAL DUE: 12/1/00 (B Bond)
1/1/00 (C Bond)

PAYING AGENT: Municipal
Bond Commission (B and C Bonds only)

BOND COUNSEL: Goodwin & Goodwin, LLP
Contact Person: W. K. Bragg, Jr.
Phone: 346-7000

LENDER: US Dept. of Agriculture, RUS (A Bond)
Contact Person: Gary D. Wilson
Phone: 420-6666

REGISTRAR: Union Bank of Tyler County
Contact Person: Gary R. Davis
Phone: 758-2191

LENDER: Div. of Environ. Protec. (B Bond)
Contact Person: R. Broaderson
Phone: 558-0641

KNOWLEDGEABLE ISSUER CONTACT:
-Contact Person: Gayla S. Fisher
Position: Mayor
Phone: 758-4771

LENDER: Union Bank of Tyler County (C Bond)
Contact Person: Gary R. Davis
Phone: 758-2191

LENDER'S COUNSEL: Jackson & Kelly, PLLC
(B Bond)
Contact Person: Samme Gee
Phone: 340-1318

DEPOSITS TO MBC AT CLOSE:

By <input type="checkbox"/> Wire	<input type="checkbox"/> Accrued Interest:	\$ <u>0</u>
<input type="checkbox"/> Check	<input type="checkbox"/> Capitalized Interest:	\$ <u>0</u>
	<input type="checkbox"/> Reserve Account:	\$ <u>0</u>
	<input type="checkbox"/> Other: _____	\$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By <input checked="" type="checkbox"/> <u>X</u> Wire	<input type="checkbox"/> To Escrow Trustee:	\$ <u>N/A</u>
<input type="checkbox"/> Check	<input type="checkbox"/> To Issuer:	\$ <u>N/A</u>
<input type="checkbox"/> IGT	<input type="checkbox"/> To Cons. Invest. Fund:	\$ <u>N/A</u>
	<input checked="" type="checkbox"/> <u>X</u> Other: GMAC	\$126,906.58



STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY

1201 DUNBAR AVENUE
DUNBAR, WV 25064

Telephone (304) 558-3812
Telecopier (304) 558-0299

April 11, 1995

Mr. Robert L. Fletcher
Town of Middlebourne
P.O. Box 167
Middlebourne WV 26149

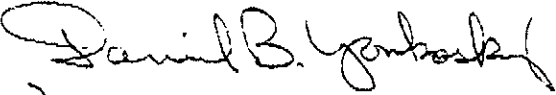
PRELIMINARY APPLICATION - TOWN OF MIDDLEBOURNE (SEWER PROJECT)

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Preliminary Application for the above-referenced project and has determined that the project is technically and financially feasible within the guidelines of the Act.

The Council recommends that the Town of Middlebourne seek the following funding to finance this project:

Rural Economic and Community Development	
Service Loan and/or Grant	\$1,310,000
Small Cities Block Grant	375,000
Division of Environmental Protection:	
Planning Advance Grant	27,417
State Revolving Fund Loan	375,000

If you have any questions concerning this decision, please contact Daniel Yonkosky, Director of the Water Development Authority, who serves as chairman of the Council's Funding Committee.


for
RUSSELL L. ISAACS, CHAIRMAN
WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

db

c Bobby Lewis, Rural Economic and Community Development Service
Fred Cutlip, West Virginia Development Office
Mike Johnson, Division of Environmental Protection

\$800,000
TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS (RURAL UTILITIES SERVICE),
SERIES 1999A

No. AR-1

Date: August 27, 1999

FOR VALUE RECEIVED, the TOWN OF MIDDLEBOURNE, a municipal corporation and political subdivision of the State of West Virginia, in Tyler County of said State (herein called "Issuer"), hereby promises to pay to the order of the United States of America (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Eight Hundred Thousand and 00/100 Dollars (\$800,000.00), plus interest on the unpaid principal balance at the rate of four and 75/100 percent (4.75.0%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$3,800.00 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Issuer as requested by Issuer and approved by the Government, and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto and made a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to the principal. Payments shall be made to the Government and mailed to the address as it appears on the books of the Issuer. Provided, however, for so long as the Government remains the owner of this Bond, the Issuer shall remit payments directly to the Government or any agency or department thereof.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Issuer. Refunds and extra payments, as defined in the regulations of the Rural Utilities Service, according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Issuer to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Issuer shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Issuer may, at the option of the Government, be remitted by the Government to the holder

While this Bond is held by an insured lender, prepayments as above authorized made by Issuer may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Issuer, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Issuer, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Issuer to the Government without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with the Issuer's Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C and any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction of improvements to a sewer system (the "System") or refunding existing debt of the Issuer, are payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

This Bond is payable only from and secured by a parity pledge of the net revenues to be derived from the operation of the system, from moneys in the Series 1999A Bonds Reserve Account created under the Ordinance for the Bonds and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (State Revolving Fund), Series 1999B and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C. Such net revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the

Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on the Bonds and the Series 1999B Bonds and Series 1999C Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999A Bonds Reserve Account amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999B and Series 1999C Bonds Reserve Accounts, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description hereof.

SPECIMEN

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Issuer, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Bond Ordinance enacted by the Issuer and effective on August 26, 1999, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code (herein called the "Act").

SPECIMEN

If at any time it shall appear to the Government that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Issuer will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government,

This Bond is given as evidence of a loan to Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B AND THE

SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505-7500.

This Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as set forth in Exhibit M of subpart G of Part 1940 of Title 7 of the Code of Federal Regulations, as amended.

IN WITNESS WHEREOF, the TOWN OF MIDDLEBOURNE has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

(SEAL)

TOWN OF MIDDLEBOURNE

By: Gayla Fisher
Mayor
100 Main Street
Middlebourne, WV 26149

ATTEST:

By: James Bonner
Recorder Acting

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999A Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 27, 1999

SPECIMEN

UNION BANK OF TYLER COUNTY

By: Jay L Davis

Its: Chairman

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

DATED: _____

(Assignor)

Witnessed in the presence of:

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$ 40,000.00	August 27, 1999	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF MIDDLEBOURNE
SEWER REVENUE BONDS (STATE REVOLVING FUND),
SERIES 1999B

No. BR-1

\$375,000

Date: August 27, 1999

KNOW ALL MEN BY THESE PRESENTS: That THE TOWN OF MIDDLEBOURNE, WEST VIRGINIA, a municipal corporation and political subdivision of the State of West Virginia in Tyler County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the order of the West Virginia Water Development Authority (the "Authority") or registered assigns, the sum of Three Hundred Seventy-five Thousand and 00/100 Dollars (\$375,000.00), or such lesser amount as set forth on the Record of Advances attached as Exhibit A hereto and incorporated herein by reference, plus interest on the unpaid principal balance hereof at the rate set out below. Interest on this Bond is set at zero percent (0%) per annum until September 1, 2000; thereafter interest shall be paid on the unpaid principal balance at the rate of two percent (2%) per annum plus a one percent (1%) annual administrative fee payable quarterly. Principal and interest on the Bond is payable in quarterly installments commencing December 1, 2000, and thereafter in quarterly installments on each March 1, June 1, September 1 and December 1, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The final installment of principal and interest shall be paid at the end of twenty (20) years from the date interest begins to accrue on this Bond and shall be in an amount equal to the amount of outstanding principal and interest due on the Bond at said date. Notwithstanding any provision of this Bond to the contrary, this Bond shall evidence only the indebtedness reflected as outstanding on the Record of Advances attached hereto. Interest shall accrue only on the amount of each advance from its actual date as listed on said Record of Advances and shall cease to accrue on the amount outstanding, or portions thereof, as the same is paid, as reflected by said Record of Advances.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). Principal and interest on this Bond are payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Union Bank of Tyler County, Middlebourne, West Virginia (the "Registrar"), on the 15th day of the month next preceding such payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole at par, but only upon thirty (30) days prior written notice to the Authority and the West Virginia Division of Environmental Protection ("DEP") and upon the terms and conditions prescribed by and otherwise in compliance with the Loan Agreement by and among the Issuer, the Authority and DEP.

This Bond is issued (i) to pay a portion of the costs of construction of certain additions, betterments and improvements to the public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The sewer system of the Issuer, together with the Project, and any further extensions, additions, betterments or improvements thereto is herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer and effective on August 26, 1999 (the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bond under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, from moneys in the Reserve Account created under the Ordinance for the Bonds (the "Series 1999B Bonds Reserve Account") and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and Sewer Revenue Refunding Bonds (Union Bank of Tyler County), Series 1999C. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on this Bond as well as the Series 1999A and 1999C Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999B Bonds Reserve Accounts amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999A and 1999C Bonds Reserve Accounts, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirement therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed

description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A AND SEWER REVENUE REFUNDING BONDS (UNION BANK OF TYLER COUNTY), SERIES 1999C, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as set forth in Exhibit M of subpart G of Part 1940 of Title 7 of the Code of Federal Regulations, as amended.

IN WITNESS WHEREOF, THE TOWN OF MIDDLEBOURNE has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder and has caused this Bond to be dated August 27, 1999.

THE TOWN OF MIDDLEBOURNE, WEST
VIRGINIA

[SEAL]

By: Gayla Fisher
Mayor

ATTEST:

Jamie A. Bennett
Recorder Acting

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999B Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 27, 1999

UNION BANK OF TYLER COUNTY

By: 

Its: Chairman

EXHIBIT A
RECORD OF ADVANCES

	<u>AMOUNT</u>	<u>DATE</u>		<u>AMOUNT</u>	<u>DATE</u>
(1)	\$18,750.00	August 27, 1999	(6)		
(2)			(7)		
(3)			(8)		
(4)			(9)		
(5)			(10)		
			TOTAL \$ _____		

EXHIBIT B

Town of Middlebourne (West Virginia)

Loan Amount of \$375,000

20 Years, 2% Interest Rate, 1% Administrative Fee

Closing Date: August 27, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
9/01/1999	-	-	-	-
12/01/1999	-	-	-	-
3/01/2000	-	-	-	-
6/01/2000	-	-	-	-
9/01/2000	-	-	-	-
12/01/2000	3,824.00	2.000%	1,875.00	5,699.00
3/01/2001	3,843.00	2.000%	1,855.88	5,698.88
6/01/2001	3,862.00	2.000%	1,836.67	5,698.67
9/01/2001	3,881.00	2.000%	1,817.36	5,698.36
12/01/2001	3,901.00	2.000%	1,797.95	5,698.95
3/01/2002	3,920.00	2.000%	1,778.45	5,698.45
6/01/2002	3,940.00	2.000%	1,758.85	5,698.85
9/01/2002	3,960.00	2.000%	1,739.15	5,699.15
12/01/2002	3,980.00	2.000%	1,719.35	5,699.35
3/01/2003	3,999.00	2.000%	1,699.45	5,698.45
6/01/2003	4,019.00	2.000%	1,679.45	5,698.45
9/01/2003	4,040.00	2.000%	1,659.36	5,699.36
12/01/2003	4,060.00	2.000%	1,639.16	5,699.16
3/01/2004	4,080.00	2.000%	1,618.86	5,698.86
6/01/2004	4,100.00	2.000%	1,598.46	5,698.46
9/01/2004	4,121.00	2.000%	1,577.96	5,698.96
12/01/2004	4,142.00	2.000%	1,557.35	5,699.35
3/01/2005	4,162.00	2.000%	1,536.64	5,698.64
6/01/2005	4,183.00	2.000%	1,515.83	5,698.83
9/01/2005	4,204.00	2.000%	1,494.92	5,698.92
12/01/2005	4,225.00	2.000%	1,473.90	5,698.90
3/01/2006	4,246.00	2.000%	1,452.77	5,698.77
6/01/2006	4,267.00	2.000%	1,431.54	5,698.54
9/01/2006	4,289.00	2.000%	1,410.21	5,699.21
12/01/2006	4,310.00	2.000%	1,388.76	5,698.76
3/01/2007	4,332.00	2.000%	1,367.21	5,699.21
6/01/2007	4,353.00	2.000%	1,345.55	5,698.55
9/01/2007	4,375.00	2.000%	1,323.79	5,698.79
12/01/2007	4,397.00	2.000%	1,301.91	5,698.91
3/01/2008	4,419.00	2.000%	1,279.93	5,698.93
6/01/2008	4,441.00	2.000%	1,257.83	5,698.83
9/01/2008	4,463.00	2.000%	1,235.63	5,698.63
12/01/2008	4,486.00	2.000%	1,213.31	5,699.31
3/01/2009	4,508.00	2.000%	1,190.88	5,698.88
6/01/2009	4,531.00	2.000%	1,168.34	5,699.34
9/01/2009	4,553.00	2.000%	1,145.69	5,698.69
12/01/2009	4,576.00	2.000%	1,122.92	5,698.92
3/01/2010	4,599.00	2.000%	1,100.04	5,699.04
6/01/2010	4,622.00	2.000%	1,077.05	5,699.05
9/01/2010	4,645.00	2.000%	1,053.94	5,698.94
12/01/2010	4,668.00	2.000%	1,030.71	5,698.71
3/01/2011	4,691.00	2.000%	1,007.37	5,698.37

Town of Middlebourne (West Virginia)
Loan Amount of \$375,000
20 Years, 2% Interest Rate, 1% Administrative Fee
Closing Date: August 27, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2011	4,715.00	2.000%	983.92	5,698.92
9/01/2011	4,739.00	2.000%	960.34	5,699.34
12/01/2011	4,762.00	2.000%	936.65	5,698.65
3/01/2012	4,786.00	2.000%	912.84	5,698.84
6/01/2012	4,810.00	2.000%	888.91	5,698.91
9/01/2012	4,834.00	2.000%	864.86	5,698.86
12/01/2012	4,858.00	2.000%	840.69	5,698.69
3/01/2013	4,882.00	2.000%	816.40	5,698.40
6/01/2013	4,907.00	2.000%	791.99	5,698.99
9/01/2013	4,931.00	2.000%	767.45	5,698.45
12/01/2013	4,956.00	2.000%	742.80	5,698.80
3/01/2014	4,981.00	2.000%	718.02	5,699.02
6/01/2014	5,006.00	2.000%	693.11	5,699.11
9/01/2014	5,031.00	2.000%	668.08	5,699.08
12/01/2014	5,056.00	2.000%	642.93	5,698.93
3/01/2015	5,081.00	2.000%	617.65	5,698.65
6/01/2015	5,107.00	2.000%	592.24	5,699.24
9/01/2015	5,132.00	2.000%	566.71	5,698.71
12/01/2015	5,158.00	2.000%	541.05	5,699.05
3/01/2016	5,184.00	2.000%	515.26	5,699.26
6/01/2016	5,210.00	2.000%	489.34	5,699.34
9/01/2016	5,236.00	2.000%	463.29	5,699.29
12/01/2016	5,262.00	2.000%	437.11	5,699.11
3/01/2017	5,288.00	2.000%	410.80	5,698.80
6/01/2017	5,315.00	2.000%	384.36	5,699.36
9/01/2017	5,341.00	2.000%	357.78	5,698.78
12/01/2017	5,368.00	2.000%	331.08	5,699.08
3/01/2018	5,395.00	2.000%	304.24	5,699.24
6/01/2018	5,422.00	2.000%	277.26	5,699.26
9/01/2018	5,449.00	2.000%	250.15	5,699.15
12/01/2018	5,476.00	2.000%	222.91	5,698.91
3/01/2019	5,503.00	2.000%	195.53	5,698.53
6/01/2019	5,531.00	2.000%	168.01	5,699.01
9/01/2019	5,558.00	2.000%	140.36	5,698.36
12/01/2019	5,586.00	2.000%	112.57	5,698.57
3/01/2020	5,614.00	2.000%	84.64	5,698.64
6/01/2020	5,642.00	2.000%	56.57	5,698.57
9/01/2020	5,671.00	2.000%	28.36	5,699.36
Total	375,000.00	-	80,911.64	455,911.64 *

*Plus one-percent administrative fee of \$505.70 paid quarterly. Total fee paid over the life of the loan is \$40,456.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

Dated: _____

(Assignor)

Witnessed in the presence of :

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF MIDDLEBOURNE
SEWER REVENUE REFUNDING BOND
(UNION BANK OF TYLER COUNTY)
SERIES 1999C

No. CR-1

\$120,000

Date: August 27, 1999

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF MIDDLEBOURNE, WEST VIRGINIA, a municipal corporation and political subdivision of the State of West Virginia in Tyler County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the order of the Union Bank of Tyler County (the "Bank") or registered assigns, the sum of One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00), plus interest on the unpaid principal balance hereof at a rate of five percent (5%) per annum. Principal on the Bond is payable in semiannual installments commencing January 1, 2000, and thereafter in semiannual installments on each January 1 and July 1, as set forth on the "Debt Service Schedule" attached as Exhibit A hereto and incorporated herein by reference.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). Principal and interest on this Bond are payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Union Bank of Tyler County, Middlebourne, West Virginia (the "Registrar"), on the 15th day of the month next preceding such payment date, or by such other method as shall be mutually agreeable so long as the Bank is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole at par upon thirty (30) days prior written notice to the Bank.

This Bond is issued to redeem in full the outstanding principal balance and all accrued interest thereon represented by the Issuer's Sewer Revenue Bonds, Series 1973. The sewer system of the Issuer, together with the Project, and any further extensions, additions, betterments or improvements thereto is herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Article 13, Article 2E of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer and effective on August 26, 1999

(the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bond under the Ordinance.

This Bond is payable only from and secured by a parity pledge of the net revenues to be derived from the operation of the System, from moneys in the Series 1999C Bonds Reserve Account created under the Ordinance for the Bonds and unexpended proceeds of the Bonds on a parity with the Issuer's Sewer Revenue Bonds (Rural Utilities Service), Series 1999A and Sewer Revenue Bonds (State Revolving Fund), Series 1999B. Such net revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount payable in any year for principal of and interest on the Bonds and the Series 1999A Bonds and Series 1999B Bonds, and all other obligations secured by a lien on or payable from such net revenues prior to or on a parity with such Bonds, provided however, that so long as there exists in the Series 1999C Bonds Reserve Account amounts at least equal to the maximum amount of principal and interest which will become due on this Bond as well as the Series 1999A and Series 1999B Bonds, in the then current or any succeeding year and in the reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, amounts at least equal to the requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond shall be applied solely to the payment of the principal of and interest on the 1973 Bond, as described in the Ordinance, and there shall be and

hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT WITH THE SEWER REVENUE BONDS (RURAL UTILITIES SERVICE), SERIES 1999A AND SEWER REVENUE BONDS (STATE REVOLVING FUND), SERIES 1999B, ISSUED CONCURRENTLY HERewith, OF THE ISSUER DESCRIBED IN THE ORDINANCE ENACTED WITH RESPECT TO SUCH BONDS.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE TOWN OF MIDDLEBOURNE has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder and has caused this Bond to be dated August 27, 1999.

THE TOWN OF MIDDLEBOURNE, WEST
VIRGINIA

[SEAL]

By: Gayla Fisher
Mayor

ATTEST:

Jamie Brown
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 1999C Bond described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 27, 1999

UNION BANK OF TYLER COUNTY

By:

Angela Davis

Its:

Chairman

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration of the within Bond of said Issuer with full power of substitution in the premises.

Dated: _____

(Assignor)

Witnessed in the presence of :

Exhibit A - Debt Service Schedule

09-01-1999

** AMORTIZATION SCHEDULE **

15:29:31

(Actual/365)

Page 1

Payment #	Date	Interest	Principal	Balance
27	08/27/99	5.000%	\$120000.00	\$120000.00
1	01/01/00	2087.67	4032.78	115967.22
2	07/01/00	2891.24	3229.21	112738.01
YEAR	2000	4978.91	7261.99	112738.01
3	01/01/01	2841.62	3278.83	109459.18
4	07/01/01	2713.99	3406.46	106052.72
YEAR	2001	5515.61	6685.29	106052.72
5	01/01/02	2678.11	3447.34	102605.38
6	07/01/02	2544.05	3576.40	99028.98
YEAR	2002	5217.16	7023.74	99028.98
7	01/01/03	2496.07	3624.38	95404.60
8	07/01/03	2365.51	3754.94	91649.66
YEAR	2003	4861.58	7379.32	91649.66
9	01/01/04	2310.07	3810.38	87839.28
10	07/01/04	2189.97	3930.48	83908.80
YEAR	2004	4500.04	7740.86	83908.80
11	01/01/05	2114.96	4005.49	79903.31
12	07/01/05	1981.16	4139.29	75764.02
YEAR	2005	4096.12	8144.78	75764.02
13	01/01/06	1909.67	4210.78	71553.24
14	07/01/06	1774.13	4346.32	67206.92
YEAR	2006	3683.80	8557.10	67206.92
15	01/01/07	1693.98	4426.47	62780.45
16	07/01/07	1556.61	4563.84	58216.61
YEAR	2007	3250.59	8990.31	58216.61
17	01/01/08	1467.38	4653.07	53563.54
18	07/01/08	1335.42	4785.03	48778.51
YEAR	2008	2802.80	9438.10	48778.51
19	01/01/09	1224.49	4890.96	43887.55
20	07/01/09	1088.17	5032.28	38855.27
YEAR	2009	2317.66	9923.24	38855.27
21	01/01/10	979.37	5141.08	33714.19
22	07/01/10	835.93	5284.52	28429.67
YEAR	2010	1815.30	10425.60	28429.67
23	01/01/11	716.58	5403.87	23025.80
24	07/01/11	570.91	5549.54	17476.26
YEAR	2011	1287.49	10953.41	17476.26
25	01/01/12	440.50	5679.95	11796.31
26	07/01/12	294.10	5826.35	5969.96
YEAR	2012	734.60	11506.30	5969.96
27	01/01/13	150.48	5969.96	0.00
YEAR	2013	150.48	5969.96	0.00

Payment Amount \$ 6120.45

Final Payment Amount \$ 6120.44

Payment Schedule Town of Middlebourne Sewer Revenue Refunding Bonds,
Series 1999C



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

RECEIVED

OCT 31 1994

OCT 28 1994

Honorable Robert L. Fletcher
Mayor
Post Office Box 167
Main Street
Middlebourne, WV 26149

Water Resources
Construction Assistance

RE: C-540676-01
Town of Middlebourne

Dear Mayor Fletcher:

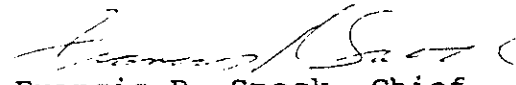
The first and final Request for Advance of Allowance for the Facilities Planning of the above referenced project, in the amount of \$27,417, has been approved by this office.

Payment will be made by the Treasury Department in the near future.

We are enclosing a copy of the Request for Advance or Reimbursement which was submitted by the West Virginia Division of Environmental Protection.

If you have any questions regarding this advance payment, please contact Nancy Schrubby at 215/597-6163.

Sincerely,


Francis R. Snock, Chief
Grants Management Section

Enclosure

J cc: Mr. Michael Johnson, WVDEP
Cerrone & Associates

(See instructions on back)		PAYMENT REQUESTED <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> PARTIAL <input type="checkbox"/> ACCRUAL D. "X" the appropriate box		
3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED US Environmental Protection Agency, Region III		4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY AC-540676-01 540000-02		
6. EMPLOYER IDENTIFICATION NUMBER 55-6000763-PA		7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER 2A		
8. PERIOD COVERED BY THIS REQUEST FROM (month, day, year) 09/18/92 TO (month, day, year) 09/30/94		5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST 1ST Final		
9. RECIPIENT ORGANIZATION Name: WV Division of Environmental Protection Office of Water Resources Number and Street: 1201 Greenbrier Street City, State and ZIP Code: Charleston, WV 25311		10. PAYEE (Where check is to be sent is different from above) Name: Town of Middlebourne Number and Street: P.O. Box 167; Main Street City, State and ZIP Code: Middlebourne, WV 26149		
11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED				
PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)	\$	\$	\$	\$
b. Less: Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month			
	2nd month			
	3rd month			
12. ALTERNATE COMPUTATION FOR ADVANCES ONLY				
a. Estimated Federal cash outlays that will be made during period covered by the advance				\$ 27,417
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period				
c. Amount requested (Line a minus line b)				\$ 27,417
13. CERTIFICATION				
I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL			DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE Mark A. Scott, Chief Office of Water Resources			09/30/94 TELEPHONE (AREA CODE, NUMBER, EXTENSION) (304) 556-2107

This space for agency use

68X0103.X ECWR036006 FY 88 41.11 \$27,417 \$1,494,810
(WAA301)

Nancy Schruby, Grants Assistant
27 October 94

THIS GRANT IS FUNDED UNDER THE STATE'S ADVANCE OF ALLOWANCE SET-ASIDE
PROJECT NUMBER C-540000-02



Cecil H. Underwood, Governor

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

July 28, 1999

The Honorable Gayla Fisher
Mayor
Town of Middlebourne
100 Main Street
Middlebourne, West Virginia 26149

Dear Mayor Fisher:

RE: Budget Amendment Number Two
Fiscal Year 1995 Small Cities Block Grant--Project Number: 95SCBG0019
Town of Middlebourne--Bridgeway Sewer Project

On July 12, 1999, our office received a request from your project administrator, Janelle Dotson, requesting a budget amendment to the above-referenced project. The revision will reflect the award of an additional \$744,400 in Small Cities Block Grant funds to the project.

You are requesting that the entire \$744,400 be added to the construction line item. The following is an outline of the new budget for the project:

<u>Activities</u>	<u>Current Budget</u>	<u>Change</u>	<u>New Budget</u>
Administration	\$ 30,700	\$ -0-	\$ 30,700
Engineering	165,000	-0-	165,000
Construction	175,000	+744,400	919,400
Tap Fees	3,300	-0-	3,300
Audit	<u>1,000</u>	<u>-0-</u>	<u>1,000</u>
TOTAL	\$375,000	\$+744,400	\$1,119,400

Thank you for providing our office with a copy of the revised Section 1 and 2 application pages.

If you have any questions, please contact your community development specialist, Angela White Negley, at the address referenced in the letterhead or by telephone at (304) 558-4010, extension 35.

Sincerely,


Tracey Rowan, Manager
Project Development

TR:ana

cc: Janelle Burwell, MOVRC
Marcie Baker, WVDEVO
T. White, WVDEVO

WEST VIRGINIA DEVELOPMENT OFFICE
GRANT AWARD

Grant Number: 96-238

Payment Number: State Acct. No.:
8746-1996-0307-096-025

Fiscal Year: 1996
Program Name: SCBG

Grantee Name & Address: F.E.I.N.
556-005-253

Town of Middlebourne
100 Main Street
Middlebourne, WV 26149

Grant Period:
From: December 27, 1995
To: December 27, 1998

Project Name: Bridgeway Sewage Collection

Grant ID: B95DC540001

Project Number: 95SCBG0019

Project Description

Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to make improvements to the town's sewage collection system and extend service to the Bridgeway area.

Change Orders

Number: Date: Purpose:

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____, PROCESSED ON OR ABOUT _____.

PAYMENT NUMBER _____.

TOTAL AMOUNT OF
THIS GRANT \$ 375,000.00

Authorized
Signature: _____

Title: Executive Director

Date: April 29, 1996

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

COPY

ASSOCIATION WATER OR SEWER SYSTEM GRANT AGREEMENT

THIS AGREEMENT dated April 8, 1996, between
Town of Middlebourne

a public corporation organized and operating under _____
Chapter 16, Article 13, West Virginia Code
(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under its jurisdiction at an estimated cost of \$ 2,149,900 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 1,577,400 of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 1,577,400 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 572,500 or 55 percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306 (a) of the Consolidated Farm and Rural Development Act for the purpose only of defraying a part not to exceed 55 percent of the development costs, as defined by applicable Farmers Home Administration instructions.

GRANTEE AGREES THAT GRANTEE WILL:

- A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.
- B. Permit periodic inspection of the construction by a representative of Grantor during construction.
- C. Comply with any measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- D. Comply with all applicable state and federal laws and regulations and manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.
- E. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges,

whether for one or more classes of service, ~~XXXXXX XXX~~, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

* and approved by the West Virginia Public Service Commission.

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0074), Washington, D.C. 20503.

1902
F. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

G. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

H. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

I. To execute Forms FmHA 400-1, "Equal Opportunity Agreement," and FmHA 400-4, "Assurance Agreement," and any other agreements required by Grantor which Grantee is legally authorized to execute. If any such forms have been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this Grant, another form of the same type need not be executed in connection with this Grant.

J. Upon any default under its representations or agreements set forth in this instrument, or in the instruments incident to the awarding of the grant, Grantee, at the option and demand of Grantor, to the extent legally permissible, will repay to grantor forthwith the original amount of the grant received with the interest accruing thereon from the date of default at the market rate for water and waste disposal loan assistance in effect on the date hereof or at the time the default occurred, whichever is greater. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

K. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

L. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantor may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

The Grant Agreement covers the following described real property (use continuation sheets as necessary).

Upgrading of Town's existing treatment plant, reduction of infiltration into existing collection system and extension of system to the Bridgeway area to serve an additional 65 customers.

M. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by FmHA.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than \$1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of \$1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share \$100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

None

N. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

O. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

P. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

Q. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

R. Agree to account for and to return to Grantor interest earned on grant funds pending this disbursement for program purposes when the Grantee is a unit of local government or a nonprofit organization. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

S. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in items K and L above.

T. Include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

U. In construction contracts in excess of \$2,000 and in other contracts in excess of \$2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

V. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. §1875C-9) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

W. The following clause is applicable to nonprofit organizations:

As a condition of this Grant or Cooperative Agreement, the recipient assures and certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated in this Agreement by reference, and such statutory provisions as are specifically set forth herein.

GRANTOR AGREES THAT IT:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$ 572,500

which it will advance to Grantee to meet not to exceed 55 percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

TERMINATION OF THIS AGREEMENT


This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in Paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

IN WITNESS WHEREOF Grantee on the date first above written has caused these presence to be executed by its duly author-

ized Mayor

and attested and its corporated seal affixed by its duly authorized Recorder

ATTEST:



David Smith

Recorder

(Title)

By



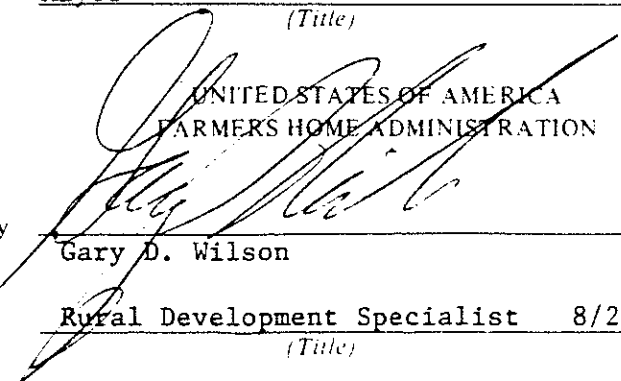
Gayla S. Fisher

Mayor

(Title)

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By



Gary D. Wilson

Rural Development Specialist 8/27/99

(Title)

one [§ 16-12-1] of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

- ☐ For disconnection from sanitary district.
☐ Against disconnection from sanitary district.

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANTARY DISTRICTS.

Sec.		Sec.	
16-13-1.	Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.		proceeds; additional and temporary bonds.
16-13-2.	Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.	16-13-11.	Additional bonds to extend or improve works.
16-13-3.	Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.	16-13-12.	Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-4.	Payment of preliminary expenses of surveys, etc.	16-13-13.	Application of revenue from bonds; lien.
16-13-5.	Ordinance necessary before acquisition or construction of works.	16-13-14.	Securing bonds by trust indenture.
16-13-6.	Publication and hearing upon ordinance.	16-13-15.	Sinking fund; transfer of balance of net revenues.
16-13-7.	Acquisition by condemnation or purchase.	16-13-16.	Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-8.	Cost of works.	16-13-17.	Municipality subject to established rates.
16-13-9.	Contracts and obligations incurred to be paid for solely by revenue bonds.	16-13-18.	Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.
16-13-10.	Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus	16-13-18a.	Publication of financial statement.
		16-13-19.	Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
		16-13-20.	Discharge of lien on property acquired.
		16-13-21.	Action on certificates or attached coupons; receivers.

Sec.

- 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
 16-13-22a. Grants, loans and advances.
 16-13-22b. Contracts for abatement of pollution.
 16-13-22c. Refunding bonds.
 16-13-22d. Subordination of bonds.
 16-13-22e. Operating contract.
 16-13-22f. Exemption of bonds from taxation.

Sec.

- 16-13-22g. Covenants with bondholders
 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
 16-13-24. Article to be construed liberally

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

Constitutionality. — See *Brewer v. City of Point Pleasant*, 114 W. Va. 572, 172 S.E. 717 (1934); *Stevenson v. City of Bluefield*, 39 F. Supp. 462 (S.D.W. Va. 1941); *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Legislative intent to protect municipalities from general obligations. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

No conflict with statutory limitations on expenditure of tax funds. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the

general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Limitation imposed by article read into agreement with federal works administrator. — Where a city made an agreement with the federal works administrator under the War Mobilization and Reconversion Act of 1944 with regard to advances of money to the city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, the limitation imposed by this article would be read into the agreement, since the parties are presumed to know the extent of the city's authority to make a binding contract. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 Op. Att'y Gen. 19 (1958).

Ordinance held valid. — An ordinance of a municipal corporation, creating a sanitary board and authorizing such sanitary board to enter into contracts for the construction of a sewage system, was within the police power of the State delegated to municipalities by this chapter. *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and

convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, That such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-2, 16-13-16, 24-1-1, 24-2-1, and 24-2-3. *Delardas v. Morgantown Water Comm'n*, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make nec-

essary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state. *Bernard v. City of Bluefield*, 117 W. Va. 556, 186 S.E. 298 (1936).

Quoted in *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in *City of Beckley v. Craighead*, 125 W. Va. 484, 24 S.E.2d 908 (1943).

§ 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to mean and include a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-16, 24-1-1, 24-2-1 and 24-2-3. *Delardas v. Morgantown Water Comm'n*, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Quoted in *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).
Cited in *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of five thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133.)

Contractor is not entitled to governmental immunities of municipality. — A contractor under contract with the sanitary board of a municipality for construction of a sewage treatment and disposal system is not entitled to the governmental immunities of the municipality incident to the construction project. *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

And is liable on contract with third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or

destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: Provided, however, That the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided. (1933, Ex. Sess., c. 25, § 4.)

A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue bonds, and not in any way from tax levies. *United States v. City of Charleston*, 149-F.

Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

And may obtain advances by any procedure it may see fit to adopt. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sani-

tary board in accordance with the provisions of §§ 16-13-1, 16-13-18 and this section. The sanitary board is an agency of the city. This article merely requires that the construction and maintenance of the project be under the supervision and control of the sanitary board. A method is provided whereby the sanitary board may meet its own necessary preliminary expenses; but the city, in the early stages of the project, during that period in which the city has not even decided to go ahead with the work, and when there is no sanitary board in existence, is not prevented by any provision in the article from obtaining advances for plan preparation by any procedure which it may see fit to adopt. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in

60 W. Va. L. Rev. 105 (1957).

United States entitled to recover advances made by federal works agency. — The United States was held entitled to recover from a city the amount of three advances of money made to the city by the federal works agency for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, and the city sanitary board was ordered to issue a requisition to the trustees, into whose hands proceeds of future bond issues came, to repay such advances out of any funds in its hands comprising proceeds of revenue bond issues. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises. (1933, Ex. Sess., c. 25, § 5.)

Quoted in *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957).

Stated in *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided,

however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four [§ 54-1-1 et seq.], of the Code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: Provided, That the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five [§ 16-13-5] hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of the cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof. (1933, Ex. Sess., c. 25, § 7.)

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during

construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise. administrative expense. and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

Expenses incurred in "determining the feasibility or practicability of the enterprise." — It is foreseen, as shown in this section, that a city may probably incur expenses in "determining the feasibility or practicability of the enterprise." Such determination would of course be made prior to the issuance of any revenue bonds, and probably before the creation of a sanitary board. It might often result in a rejection of the project altogether, in which event no revenue bonds would be issued, and any obligation incurred by the city might prove to be uncollectible. On the other hand, if the project be undertaken by the city, whatever loans may have been made on the faith of the revenue bonds would or should be included in the cost of the works and repaid out of the proceeds of the bonds. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Advances from the United States to a city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system represent a part of the cost of the works which should have been repaid out of the first proceeds received from the sale of the first issue of revenue bonds. Such repayment would not in any way increase the cost of the works; it was the very first item of expense incurred in connection with the works. Under the agreement between the city and the United States, it was a liability from the moment construction of the sewage treatment and disposal plant was begun. No disadvantage would result to bondholders as a result of the payment of this just debt out of the proceeds of a future revenue bond issue. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of the works, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for such payment, and said bonds shall not, in any respect, be a corporate indebtedness of such municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of such bonds shall be determined by ordinance or ordinances of the municipality. (1933, Ex. Sess., c. 25, § 9; 1949, c. 93.)

Cross references. — See notes to § 16-13-8.

The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondhold-

ers are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. *Brewer v. City of Point Pleasant*, 114 W. Va. 572, 172 S.E.

717 (1934); *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

Contractual obligation between municipalities not relieved by inability of town to sell revenue bonds. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town may enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because

it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. *City of Morgantown v. Town of Star City*, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the

sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 11.)

§ 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. (1933, Ex. Sess., c. 25, § 12.)

§ 16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof; with such safeguards and restrictions as it may determine. (1933, Ex. Sess., c. 25, § 14.)

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if

all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all

the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105.)

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see R.C.P. 2.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-2, 24-1-1, 24-2-1, and 24-2-3. *Delardas v. Morgantown Water Comm'n*, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Municipal sewer system is subject to jurisdiction of public service commission. 45 Op. Att'y Gen. 642 (1954).

Hence, municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Jurisdiction to enforce lien. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery

practice. *City of Beckley v. Craighead*, 125 W. Va. 484, 24 S.E.2d 908 (1943).

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. *Houchins v. City of Beckley*, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Applied in *Brewer v. City of Point Pleasant*, 114 W. Va. 572, 172 S.E. 717 (1934).

Quoted in *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-17. Municipality subject to established rates.

The municipality shall be subject to the same charges and rates established as hereinbefore provided, or to charges and rates established in harmony therewith, for service rendered the municipality, and shall pay such rates or charges when due from corporate funds and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 17.)

Quoted in *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing sewage works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board. During the construction period one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a

person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95.)

Effect of article generally. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

There is no repugnancy between the provisions of this article and §§ 24-1-1, 24-2-1 or 24-3-1, and for these reasons, the provisions of this article do not operate to repeal any of those sections. *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

The provisions of this article do not revise the subject matter of §§ 24-1-1, 24-2-1 or 24-3-1, and they were not intended as a substitute for any of the provisions of those sections. *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

In conferring such power and authority upon a municipality by this article, the legislature did not create, or intend to create, any repugnancy or inconsistency between the provisions

of this article and the pertinent provisions of chapter 24, or to repeal any of those provisions of that chapter. *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Public service commission may order extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. *State ex rel. City of Wheeling v. Renick*, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Sanitary board may be incorporated and domesticated in adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. *Bernard v. City of Bluefield*, 117 W. Va. 556, 186 S.E. 298 (1936).

Member of city council may not serve as consulting engineer to the sanitary board on

city sewer project. 49 Op. Att'y Gen. 60 (1961).

Mayor and city manager may not both be appointed to municipal sanitary board.

— When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board. see 52 Op. Att'y Gen. 497 (1967).

Applied in Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's notes. — The phrase "justice of the peace" and the word "justice," when used in a context meaning "justice of the peace," are

construed to mean "magistrate." See § 50-1-17 and W. Va. Const., art. VIII, § 15.

§ 16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the

lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, however, That no such contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2.)

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-20. Discharge of lien on property acquired.

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full. (1933, Ex. Sess., c. 25, § 20.)

§ 16-13-21. Action on certificates or attached coupons; receivers.

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer,

including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see Rule 2.

As to receivers, see Rule 66.
As to application of rules to extraordinary remedies, see Rule 81(a)(5).

§ 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for ten miles outside the corporate limits thereof. (1933, Ex. Sess., c. 25, § 22.)

§ 16-13-22a. Grants, loans and advances.

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

Stated in *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957).

§ 16-13-22b. Contracts for abatement of pollution.

When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment. (1949, c. 93.)

§ 16-13-22c. Refunding bonds.

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds. (1949, c. 93.)

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such

period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1955, c. 132.)

§ 16-13-22f. Exemption of bonds from taxation.

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with sewerage system, and all the moneys, revenues and other income of such municipality derived from such sewerage system shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof. (1955, c. 132.)

§ 16-13-22g. Covenants with bondholders.

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or without the State, for the security of said bonds, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds, or the revenues derived from said sewerage system, may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, operation or control of such sewerage systems, including any part thereof heretofore or hereafter constructed or acquired or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be deemed necessary or desirable;

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality to the account or accounts of such sewerage system of an amount equal to the cost of furnishing the municipality or any of its departments, boards or agencies with the services and facilities of such sewerage system;

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system, and the rank or

priority, as to lien and source and security for payment from the revenues of such sewerage system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual operation, maintenance and repair of such sewerage system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such sewerage system, or any part thereof, and the use and disposition of the proceeds of any insurance;

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified, or approved by accountants designated or approved by the holders of bonds issued hereunder;

(j) Such other additional covenants as shall be deemed necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to such municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the Constitution of the State of West Virginia. (1955, c. 132.)

§ 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed

by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933. Ex. Sess., c. 25, § 23.)

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the municipal bond commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three

[§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required. If any rate or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "director of the division of environmental protection or the environmental quality board" for "chief of the division of water resources or the state water resources board" twice preceding the two provisos and for "state water resources board" once in each proviso; substituted "municipal bond

commission" for "state sinking fund commission"; deleted "however" in the first proviso; and made other minor changes.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

Applied in *City of Morgantown v. Town of Star City*, 156 W. Va. 529, 195 S.E.2d 166 (1973).

ARTICLE 9.

OFFENSES GENERALLY.

Sec.
16-9-1. [Repealed.]

§ 16-9-1.

Repealed by Acts 1996, c. 89.

Editor's notes. — Former § 16-9-1 (enacted by Acts 1913, c. 23, §§ 1, 2 and amended by Code 1923, c. 150, § 20h), concerning prohibition of common drinking cups, was repealed by Acts 1996, c. 89.

ARTICLE 9A.

TOBACCO USAGE RESTRICTIONS.

§ 16-9A-1. Legislative intent.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

§ 16-9A-4. Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND
SANITARY DISTRICTS.

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the dis-

trict court implicitly rejected the commission's interpretation. *City of Charleston v. Public Serv. Comm'n.* 57 F.3d 385 (4th Cir.), cert. denied, — U.S. —, 116 S. Ct. 474, 133 L. Ed. 2d 404 (1995).

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND
ACT.

Sec.		Sec.	
22C-2-1.	Definitions.		ment of fund moneys; adminis-
22C-2-2.	Designation of division of environ-		tration of the fund.
	mental protection as state in-	22C-2-4.	Annual audit.
	strumentality for purposes of	22C-2-5.	Collection of money due to the fund.
	capitalization agreements with	22C-2-6.	State construction grants program
	the United States environmen-		established; special fund.
	tal protection agency.	22C-2-7.	Environmental review of funded
22C-2-3.	West Virginia water pollution con-		projects.
	trol revolving fund; disburse-	22C-2-8.	Conflicting provisions.

Editor's notes. — The Water Pollution Control Revolving Fund Act was formerly compiled in c. 20, art. 51.

§ 22C-2-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant

to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

- (1) Sewage and wastewater collection, treatment and disposal facilities;
- (2) Public water transportation, treatment and distribution facilities;
- (3) Drainage facilities and projects;
- (4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;
- (5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and
- (6) Other projects allowable under federal law. (1994, c. 61; 1996, c. 257.)

§ 22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws. (1994, c. 61.)

§ 22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the

fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local entities and establish the interest rates and repayment terms of the loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61; 1996, c. 257.)

§ 22C-2-4. Annual audit.

The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the cost of construction of a project or as an administrative expense under the provisions of subsection (a), section three [§ 22C-2-3(a)] of this article. (1994, c. 61.)

§ 22C-2-5. Collection of money due to the fund.

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity,

and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all of the terms and conditions of the loan agreement between the state and that local entity including:

(1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(2) The enforcement and collection of service charges; and

(3) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1994, c. 61; 1996, c. 257.)

§ 22C-2-6. State construction grants program established; special fund.

(a) The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code to establish a state construction grants program that is designed to complement and supplement the state water pollution control revolving fund program established pursuant to subsection (b), section three [§ 22C-2-3(b)] of this article. -

(b) The special fund designated "The West Virginia Construction Grants Fund" established in the state treasury is continued. The special fund shall be comprised of moneys appropriated to said fund by the Legislature, assessments on existing wastewater treatment facilities, and all other sums designated for deposit to the special fund from any source, public or private: Provided, That such assessments shall be made and collected in accordance with fee schedules to be established by legislative rules promulgated by the director of the division of environmental protection, in accordance with chapter twenty-nine-a of this code. Moneys in the special fund shall be used solely for the state construction grants program established under subsection (a) of this section: Provided, however, That moneys in the special fund may be utilized to

defray the costs incurred by the division of environmental protection in administering the provisions of this section. (1994, c. 61.)

§ 22C-2-7. Environmental review of funded projects.

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to implement the environmental review of funded projects: Provided, That the rules shall be consistent with the regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local entity, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of the projects under the federal clean water act, as amended. (1994, c. 61; 1996, c. 257.)

§ 22C-2-8. Conflicting provisions.

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling. (1994, c. 61.)

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

Sec.		Sec.	
22C-3-1.	Short title.	22C-3-7.	Development of state solid waste management plan.
22C-3-2.	Legislative findings; declaration of policy and responsibility; purpose and intent of article.	22C-3-8.	Power of board to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C-3-3.	Definitions.	22C-3-9.	Development and designation of solid waste disposal sheds by board.
22C-3-4.	Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board.	22C-3-10.	Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C-3-5.	Board to designate and establish disposal sheds; construction, maintenance, etc., of disposal projects; loan agreements; compliance with federal and state law.	22C-3-11.	Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal
22C-3-6.	Powers, duties and responsibilities of board generally.		